

## Petition to IRS Chief Counsel: What Is My 2011 Income Tax Liability?

Very seldom does a student come up with something I have not thought about in my 35+ years of research. However, a few days ago, I received an email with an attached document that one of my students from over 20 years ago had drafted for my review.

The title was:

*Request for Determination of 2011 Income Tax Liability & for Redress of Grievance.*

This document is 4 ½ pages long and more fully sets forth what I have been teaching, in shorthand, than anything I have ever come across in all my years of research. It is the *CliffsNotes*<sup>1</sup> version of my eBook, *Taxation by Misrepresentation, the Truth about Income Taxes in Plain English*.

While I do not believe that reading this powerful document is a substitute for reading my more extensive eBook, I believe that it is an extraordinary example of what fertile minds can do with my research, once they are informed of the true nature of income taxes.

I have known this particular student for over 20 years and gave him my permission to use my research in any way he chose to and advised him to publish the document himself.

He declined and said that, since it was all based upon his understanding of my research, I should publish it under my name and declined to take any credit for his brilliant encapsulation of my ideas.

I cannot tell you how powerful this document is, how concise and very much to the point it is in every respect.

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<sup>1</sup> **CliffNotes**) are a series of student study guides available primarily in the United States. The guides present and explain literary and other works in pamphlet form or online. Detractors of the study guides claim they let students bypass reading the assigned literature. In contrast, the company claims to promote the reading of the original work, and does not view the study guides as a substitute to the reading. <http://en.wikipedia.org/wiki/CliffsNotes> (03/28/12)

He filed it with the Chief Counsel of the Internal Revenue Service in Washington, DC, and with the Internal Revenue Service offices here, in Salt Lake City.

I have edited it only for purposes of privacy and added paragraph numbers. The language is unchanged!

Watch closely as this modern Sun Tzu shreds the strategies and defenses of the Internal Revenue Service.

Here it is:

name & address  
SSN: (private)  
Tuesday, April 2, 2012

Internal Revenue Service  
Office of Chief Counsel  
1111 Constitution Ave., NW  
Washington, DC 20224

Dear Chief Counsel:

Re: Request for Determination of 2011 Income Tax Liability & Request for Redress of Grievance

1. As I understand the requirements for filing a tax return for tax year 2011, IRC § 6012<sup>2</sup> requires a person to file a return if that person has received "gross income" equal to or in excess of the exemption amount, which, I believe, was \$3,700 for 2011.
2. Treas. Reg. § 1.61-1 states that "Gross income means all income from whatever source derived, unless excluded by law."
3. Treas. Reg. § 1.312-6(b) notes that there exists at least some items of "income not taxable by the Federal Government under the Constitution."

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<sup>2</sup> I don't believe that IRC § 6012 applies to individual income taxes, because I can find no Part 1 (income tax) regulation applicable to § 6012. However, If I am incorrect, I know that the Secretary or his authorized delegate will apply the law and regulations correctly.

4. I am aware of a similar statement by the Supreme Court:

We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (*Doyle v. Mitchell Brothers Co.*, ante, 247 U. S. 179, and *Hays v. Gauley Mountain Coal Co.*, ante, 247 U. S. 189), 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” . . .

*Southern Pacific Co. v Lowe*, 247 U.S. 330, 335 (1918).

5. Treas. Reg. § 1.265-1(d) provides, in relevant part:

(d) *Statement of classes of exempt income; records.* (1) **A taxpayer receiving any class of exempt income or holding any property or engaging in any activity the income from which is exempt shall submit with his return as a part thereof an itemized statement, in detail**, showing (i) the amount of each class of exempt income, and (ii) the amount of expenses and amounts otherwise allowable allocated to each such class (the amount allocated by apportionment being shown separately) as required by paragraph (c) of this section.

(Emphasis added).

6. During the tax year 2011, I received the following receipts:

- \$xxxx from Social Security
- \$xxxx from Sales commissions
- \$xxxx from interest

7. It appears that IRC § 6065 may require that any return required to be made must be executed under penalties of perjury. I can find no reference to this provision of the IRC within 26 CFR Part 1, so I do not know for certain whether or not this requirement applies to income a person receives from a class of income exempt under the Constitution from a Part 1 tax. By “Part 1 tax,” I always mean the graduated income tax imposed at IRC § 1.

8. Taking the information above into consideration, together with my understanding of the laws and regulations cited, I firmly believe that I am not able to file a true, complete and accurate tax return for the tax year 2011 unless I can include a statement, in detail, as to any of the receipts listed above that may not be taxable by the Federal Government under the Constitution.

9. After investing a substantial amount of time in trying to come to a correct understanding of the tax laws, I have no idea whether any of the receipts listed above are or are not taxable by the Federal Government under the Constitution.

10. Because Part 1 of 26 CFR does not have any reference to 26 U.S.C. § 6201, it appears to me that it does not apply to any 26 CFR Part 1 kind of tax. However, under 26 U.S.C. § 6201, it may be that the Secretary or his delegate is the only person authorized and required to make determinations as to whether or not such items are not taxable by the Federal Government under the Constitution.

11. Therefore, because I do not wish to make any mistakes with regard to these important matters, I request that the Secretary or his authorized delegate make and send to me a determination in writing, setting forth what part, if any, of the receipts cited above is taxable by the Federal Government and what part, if any, is not taxable by the Federal Government under the Constitution.

12. I am aware that the Government has stated, clearly and unequivocally, before the U.S. Supreme Court, in *G. M. Leasing Corp. v. United States*, 429 U.S. 338 (1977), that all "standard Service procedures" are based upon the standards set forth by the Supreme Court in *Murray's Lessee v. Hoboken Land & Improv. Co.*, 59 U.S. 272 (1856).

13. I further understand the *Murray* Court to have held that the Due Process Clause of the Fifth Amendment to the U.S. Constitution requires the Government to use processes and procedures that are no different in principle from those processes and procedures used by the officials of the King of England to collect his debts, in 1791, whenever the Government chooses to collect its revenues by summary, non-judicial means.

14. I understand the *Murray* Court and the English treatises cited therein to state, clearly and unequivocally, that the King could collect no debt unless the debt had become a matter of record in the Exchequer.

15. From my study of the treatises cited by the *Murray* Court, I see, clearly and unequivocally, that the King's Exchequer (Treasury) officials used only two processes to reduce the King's debts to matters of record: 1) the findings of a commission of inquiry (aka inquest of office) and 2) a statute staple contract, bond or deed.

16. Therefore, based upon my reading and understanding of the *Murray* Decision and the authorities cited therein, it is my belief and understanding that the statute staple process was used by the King's Exchequer officials to reduce to matters of record ONLY those debts entered into by debtors who had assumed such debts voluntarily, whereas those debts imposed by Acts of Parliament were made matters of record based upon the findings of the King's commissions of inquiry.

17. The *Murray* Court stated, clearly and unequivocally, that due process requires that summary, non-judicial revenue processes and procedures must be no different in principle from those same processes and procedures employed by the King's Exchequer officials in 1791. In *G.M Leasing*, the Government itself acknowledged that all "standard Service procedures" are based upon *Murray's Lessee*.

18. Therefore, I firmly believe that the Form 1040 U.S. Individual Income Tax Return is no different in principle from the statute staple process taken and enrolled at the King's Exchequer at Westminster in 1791. Statutes staple, as I am certain you are aware, was employed only for those debts entered into by voluntary agreement by the King's debtors, who then and there knew and understood that the said agreement was to operate as a statute staple under the Statute of the Staple, 27 EDW. III, Stat. 2 (1353).

19. While I intend to file every mandatory return and pay every tax required under the Internal Revenue Code, I have no desire to volunteer to any tax not so required or to agree to any modern-day equivalent of a voluntary statute staple contract, bond or deed.

20. Therefore, I request that any determinations made with regard to whether or not the previously mentioned receipts to me are or are not taxable under the Constitution be made in compliance with the applicable law by the Secretary or his authorized delegate without my signing or agreeing to a statute staple Form 1040, 1040A or any other version of the statute staple Form 1040.

21. Specifically, if the Secretary or his authorized delegate determines that any of the above receipts to me are taxable by the Federal Government under the Constitution, I request that such receipt to me be assessed, pursuant to 26 U.S.C. § 6203, without the presence in my tax files of a statute staple Form 1040, or any version thereof, signed by me or constructively signed by my default. I also require that I be given, in writing, the statutory notice that such receipt has been assessed, pursuant to 26 U.S.C. § 6303.

22. Furthermore, I do not agree to any person's filing or signing such statute staple Form 1040, 1040A or any other version of the statute staple Form 1040 on my behalf AND HEREBY OBJECT TO ANY SUCH ACT.

23. I am unable to find any Part 1 (income tax) regulation promulgated in reference to either IRC § 6203 or § 6303. It appears, therefore, that the Secretary has determined that these sections do not pertain to income taxes.

24. If I am incorrect, then the Secretary or his authorized delegate will be able to make the requested determination without the presence of a statute staple Form 1040, or any variation thereof, in my tax files, signed or unsigned by me or signed by any other person purporting to act in my stead.

25. If, however, the Secretary or his authorized delegate is unable, under the tax laws and regulations, to make such a determination without a statute staple Form 1040 in my tax files, then that inability will provide powerful evidence in support of my belief and understanding: 1) that Form 1040 is, indeed, the modern-day equivalent to the statute staple contracts taken and enrolled in the King's Exchequer in 1789-1791; 2) that the Secretary must not deem the receipts above to constitute "gross income" as defined at Treas. Reg. § 1.61-1; 3) that the Secretary must consider, for some unstated reason, that said receipts are not taxable by the Federal Government under the Constitution; 4) that said statute staple Form 1040 binds only by consent, as did the King's statutes staple; 5) that the filing of statute staple Form 1040 for the year 2011 must,

therefore, be voluntary; and 6) that the income tax imposed at IRC § 1 is voluntary for the receipts above under these circumstances.

26. Because the Statute of the Staple operated under the Law Merchant, I believe that the form letter routinely sent to individuals, stating that the Secretary's records shows that he has not received their return for a past tax year, constitutes a confirmatory writing in the commercial law today and that, if not timely replied to in writing, may serve as evidence that the Secretary has obtained from that person a Form 1040 or 1040A contract (consent by default) for the taxable year signed by the individual, pursuant to the operation of Federal Commercial law, mirrored in UCC § 2-201(2), which reads:

Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against such party unless written notice of objection to its contents is given within 10 days after it is received.

27. This is to advise the Secretary that I am not a merchant trafficking myself, my inalienable rights and my labor as commodities in commerce. He has no reason to believe that he has such a contract or that I ever intend to be a party to such a contract. I am a freeman, endowed by God with inalienable rights for which He holds me accountable. Moreover, I believe that the Creator will not countenance my abrogation of the inalienable rights with which he has endowed me, even if I wanted to, which I most certainly do not, by entering into a Form 1040 statute staple contract and subjecting myself into a condition of voluntary servitude to the Federal Government and thereby subjugating to the government my ability to fully account to my Creator in all things.

28. I realize that Congress may require the Secretary to send me such a confirmatory writing. Therefore, this is advance notice to the Secretary that I am not such a merchant and that no reason exists to believe that I have or ever will voluntarily convey myself into such a condition of servitude.

29. Please, permit me to repeat that, as I perceive the laws, facts and regulations, I am faced with a dreadful dilemma.

30. On the one hand, I do not wish voluntarily to agree to a statute staple Form 1040. Yet, I am faced with the very real possibility of risking enormous and severe civil and criminal penalties, should I be incorrect in my understanding of the duties placed upon me by the income tax laws and regulations.

31. On the other hand, 26 U.S.C. § 7421(a) (Anti-injunction Act) appears to foreclose to me all judicial review of my dilemma unless I first agree to and actually file a statute staple Form 1040 with the Internal Revenue Service.

32. Should I so file, I will have effectively self-determined that all the receipts listed above are taxable and that none of them comes within the scope of those items of "income not taxable by the Federal Government under the Constitution." 26 CFR § 312-6(b).

33. This dilemma has caused me great mental and emotional anguish. For, while I do not wish to violate any Internal Revenue laws, I also do not wish to take on any obligations not required by them. I consider this dilemma to be a grievous burden to carry.

34. Therefore, I am petitioning the Secretary for a redress of this grievance by requesting that he or his authorized delegate make a determination, pursuant to IRC § 6201, which, if any, of the receipts listed above are "not taxable by the Federal Government under the Constitution," so that I may timely comply with any and all duties imposed upon me by the Internal Revenue laws and regulations thereto.

35. I look forward to the Secretary's determination in this matter at his earliest convenience, so that I may timely comply with any duties imposed upon me by the Internal Revenue Code and the Treasury Regulations thereto.

Sincerely,  
(Name withheld)

CC: Internal Revenue Service  
50 S. 200 East  
Salt Lake City, UT 84111

## Purposes Behind This Document

The very best way to understand the purposes behind this document, in my opinion, is to go through each paragraph and attempt to understand why he wrote what he did.

The author of this document is a keen student of Sun Tzu, the Great Chinese General who is credited with writing *The Art of War*.<sup>3</sup>

Among Sun Tzu's many great quotes are these:

- All men can see these tactics whereby I conquer, but what none can see is the strategy out of which victory is evolved.
- All war is based on deception.
- The general who advances without coveting fame and retreats without fearing disgrace, whose only thought is to protect his country and do good service for his sovereign, is the jewel of the kingdom.
- The general who wins the battle makes many calculations in his temple before the battle is fought. The general who loses makes but few calculations beforehand.
- Thus, what is of supreme importance in war is to attack the enemy's strategy.

Sun Tzu Quotes - BrainyQuote <http://bit.ly/HkA9G9> (03/29/12).

<sup>3</sup> Communist Chinese leader Mao Zedong partially credited his victory over Chiang Kai-shek and the Kuomintang in 1949 to *The Art of War*. The work strongly influenced Mao's writings about guerrilla warfare, which further influenced communist insurgencies around the world.[17]

General Vo Nguyen Giap, the military mastermind behind victories over French and American forces in Vietnam, was an avid student and practitioner of Sun Tzu's ideas. America's defeat here, more than any other event, brought Sun Tzu to the attention of American military leaders. Ho Chi Minh translated the work for his Vietnamese officers to study.[19][20]

The Department of the Army in the United States, through its Command and General Staff College, has directed all units to maintain libraries within their respective headquarters for the continuing education of personnel in the art of war. *The Art of War* is mentioned as an example of works to be maintained at each individual unit, and staff duty officers are obliged to prepare short papers for presentation to other officers on their readings.[21]

Sun Tzu's *The Art of War* is listed on the Marine Corps Professional Reading Program (formerly known as the Commandant's Reading List).[22] During the Persian Gulf War in the 1990s, both General Norman Schwarzkopf, Jr. and General Colin Powell practiced Sun Tzu's principles of deception, speed, and attacking the enemy's weakness.[17] [http://en.wikipedia.org/wiki/Sun\\_Tzu](http://en.wikipedia.org/wiki/Sun_Tzu) (footnotes omitted) (03/29/12).

- Build your opponent a golden bridge to retreat across.

<http://bit.ly/HkCDo2> (03/29/12).

Essentially, this document poses a no-win situation for the IRS Chief Counsel. It attack's the IRS with its own laws, regulations, and practices, with its own "strategies," as Sun Tzu would say. However, it also creates a golden bridge over which the Chief Counsel can retreat without loss of face.

If you understand the purposes behind this document, you will have understood the structure of the Internal Revenue Code and the regulations better than any judge or tax attorney I have met during my 35+ years of research into our tax laws. That is why I am going to take a step-by-step approach to explaining the document.

I repeat: Watch closely as this modern Sun Tzu shreds the enemy's strategies.

- In ¶ 1, he lays out the apparent requirements for filing a tax return for the year 2011, namely, "gross income" equal to or in excess of \$3,700 for tax year 2011.
- In ¶ 2, he shows that the Secretary has promulgated Treasury Regulation § 1.61-1 that shows that some income is excluded from the computation of "gross income" by law, although the regulation itself does not cite which law(s) are applicable.
- So, what does he do, next? He cites another regulation that shows that at least some income is excluded from taxation or is "tax-exempt" under the law of the Constitution.
- He supports these regulations with the Supreme Court's statement in *Southern Pacific Co. v. Lowe*.
- He has already set the stage for doubt as to what items of income come within and without the exclusion to "gross income" in Treas. Reg. § 1.61-1.
- Next, he shows the Treasury Regulation that requires a taxpayer to submit a statement, "in detail," as to his tax-exempt income and the expenses allocated thereto (§ 1.265-1(d)). ¶ 5.
- Now he sets out his receipts for 2011.
- Then he points out that his tax return must be submitted and signed under the penalties of perjury. Can you see the noose he is weaving? To

me, the flow of this document is a performance of exquisite beauty, something like a symphony or a choreographed ballet. ¶ 7.

- Now he has set the trap. "What am I to do, Mr. Chief Counsel? Please, help me. I need to submit this statement, in detail, . . ." and you can almost guess what is going to come next, can't you?
- You're right: "I have no idea whether any of the receipts listed above are or are not taxable by the Federal Government under the Constitution."
- In ¶ 10, the author notes that the "Part 1" regulations do not address IRC § 6201. Let me explain what he is doing here.

IRC § 6201 gives the Secretary of the Treasury the authority and the duty to make all inquiries, determinations and assessment of all taxes under the Internal Revenue Code. Under IRC § 7805, the Secretary is required to "prescribe all needful rules and regulations for the enforcement of" the Internal Revenue Code.

To carry out this mandate by Congress, the Secretary promulgates (publishes) numerous regulations to inform the public how the Secretary (the Treasury Department and the IRS) understands the various sections of the Internal Revenue Code to apply. The courts give great deference to the Secretary's regulations, as long as they reasonably enforce the Code sections themselves.

When the Secretary promulgates a regulation, he uses a numbering system that, if understood, is very easy to follow. For example, 26 CFR 1.61-1 states, in code, the following:

- 26 means Title 26 of the United States Code (there are 50 titles, in all, and the Internal Revenue Code is Title 26).
- CFR is short for Code of Federal Regulations.
- 1. stands for "Part 1" of the regulations for Title 26. "Part 1" stands for "income taxes." Part 31 is for "employment taxes. Part 301 is for "Procedure and Administration, a kind of general category used to list regulations that may apply to many different sections of the tax Code. Instead of repeating the regulation countless times, the Secretary writes one regulation under Part 301, then refers to it in each of the particular sections to which it pertains.

- 61 stands for IRC § 61 of the tax Code itself. So, we know that this regulation gives the Secretary's understanding of the requirements pertaining to Section 61 of the Internal Revenue Code.
- -1 means that this is the first, or number 1, regulation for Section 61 of the tax Code. The Secretary may prescribe several regulations for different sections. For example, we have already seen 26 CFR § 1.312-6. That is the 6<sup>th</sup> regulation applicable to IRC § 312.

So, what our Sun Tzu, Jr., is doing in ¶ 10 is informing the IRS Chief Counsel that he is aware that the Secretary has not prescribed any Part 1 regulation under IRC § 6201.

In plain English, Sun Tzu, Jr., is saying, "Look, if the Secretary wanted to enforce an income tax under § 6201, he would have prescribed a regulation numbered as 26 CFR § 1.6201-1, but he didn't." That is *prima facie*<sup>4</sup> evidence that the Secretary does not believe that he can enforce an income tax under his authority at § 6201, i.e., he cannot enforce an assessment under that authority, because he cannot make an assessment under that section UNLESS the income tax has been "determined by the taxpayer" himself or herself on their own returns, as per § 6201(a)(1).<sup>5</sup>

However, when the taxpayer has determined that all his or her income is taxable, the Secretary does not need to issue a regulation on that topic. Why? Because Congress does not need to give the Secretary any authority to receive a free gift from a taxpayer.

Nevertheless, Sun Tzu, Jr., builds a golden bridge of retreat for the IRS Chief

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<sup>4</sup>**Prima facie** (IPA: /ˈpraɪmə ˈfeɪʃiː/;[1] from Latin: *primā faciē*) is a Latin expression meaning *on its first encounter*, *first blush*, or *at first sight*. The literal translation would be "at first face" or "at first appearance", from the feminine form of *primus* ("first") and *facies* ("face"), both in the ablative case. It is used in modern legal English to signify that on first examination, a matter appears to be self-evident from the facts. In common law jurisdictions, *prima facie* denotes evidence that – unless rebutted – would be sufficient to prove a particular proposition or fact. The term is used similarly in academic philosophy.

Most legal proceedings require a *prima facie* case to exist, following which proceedings may then commence to test it, and create a ruling. [http://en.wikipedia.org/wiki/Prima\\_facie](http://en.wikipedia.org/wiki/Prima_facie) (03/29/12).

#### **5(1) Taxes shown on return**

The Secretary shall assess all taxes **determined by the taxpayer** or by the Secretary as to which returns or lists are made under this title. (Bold added).

Counsel by acknowledging that § 6201 may be the only section within the Internal Revenue Code to authorize any person to make all determinations as to whether items of income are or are not taxable by the Federal Government under the Constitution. That person is the Secretary or his authorized delegate.

Why is Sun Tzu, Jr., building this golden bridge of retreat for the Chief Counsel? Because, as you will see, he knows that Secretary does not have the authority to assess income taxes upon individuals unless there is a tax return in the individual's Individual Master File (IMF) or Non-Master File (NMF) maintained by the IRS on each and every individual taxpayer.

Furthermore, Sun Tzu, Jr., is aware, as you will soon be, that the Form 1040 and every variation of that tax form is the modern-day equivalent of an ancient English commercial contract, bond or deed authorized by an enactment of the English Parliament under King Edward III, the grandson of King Edward I, Longshanks, in the movie *Braveheart*, starring Mel Gibson. The English statute is known as the Statute of the Staple, 27 Edw. III, Stat. 2 (1353).

The contract, bond or deed entered into was known as a "statute staple," very similar to a "statute merchant," both named after their respective statutes.<sup>6</sup>

While Wikipedia states that these two old forms of security are long obsolete, listen to what an expert on English revenue practices states on this topic:

Statutes merchant, statutes staple, and recognizances in the nature

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<sup>6</sup> **Statute merchant** and **statute staple**; two old forms of security, long obsolete in English practice, though references to them still occur in some modern statutes.

The former security was first created by the 1283 Statute of Merchants, or **Statute of Acton Burnell** (named after Acton Burnell in Shropshire, the place where Parliament met and passed the statute) and amplified by the 1285 Statute of Merchants 1285, whence its name, and the latter by an act of 1353, which provided that in every staple (i.e. public mart) the seal of the staple should be sufficient validity for a bond of record acknowledged and witnessed before the mayor of the staple. They were originally permitted only among traders, for the benefit of commerce, but afterwards extended by an act of Henry VIII (1532) to all subjects, whether traders or not. The creditor under either form of security was allowed to seize the goods and hold the lands of a defaulting debtor until satisfaction of his debt. While he held the lands he was termed tenant by statute merchant or by statute staple. In addition to the loss of his goods and lands the debtor was liable to be imprisoned. **Statute merchant**, owing to the summary method of enforcing payment, was sometimes known as pocket judgment. Both were repealed by the Statute Law Revision Act 1863. [http://en.wikipedia.org/wiki/Statute\\_merchant](http://en.wikipedia.org/wiki/Statute_merchant) (03/29/12).

of statute staple, are now out of use. But the powers and energies of those instruments are still in force in favour of the Crown. And since the statute of Hen. 8. the writ of *extendi facias* or extent, by which the sheriff is authorized in one writ to take person, goods, lands and debts, has been the constant execution at the suit of the Crown, against its own immediate debtor.

Joseph Chitty, Jr., *A Treatise on The Law of the Prerogatives of the Crown and the Relative Rights and Duties of the Subject* 263-264 (1820) <http://j.mp/uTC4lf> (scroll down to p. 263) (03/29/12).

As you will soon see, Sun Tzu, Jr., is laying the groundwork for an assault on the Form 1040 U.S. Individual Income Tax Return. However, he would not have been able to lay the groundwork had he not been my avid student of over 20 years and was keenly aware of the secrets I had discovered that lie hidden at the core and form the very foundation of the Internal Revenue Code and the practices of the Internal Revenue Service today.

It may well be true that statutes staple, statutes merchant and recognizances<sup>7</sup> in the nature of statute staple are out of use in England and America, but do not be fooled by such statements; the powers and energies of these instruments have not been lost on the officials of the Treasury Department and are alive and well in the Internal Revenue Code and in the practices of the Internal Revenue Service today. In fact, there is more use of such instruments, today, in the revenue practices of the United States than there ever was in England. The problem is that our legal profession, along with the rest of us, has been slowly, but completely, anesthetized by the propaganda that emanates from those who deceptively enforce such instruments against us.

- In ¶ 11, Sun Tzu, Jr., makes the actual request for the Secretary's determination as to whether or not any of his receipts are taxable by the Federal Government under the Constitution.
- In ¶¶ 12-18, he lowers the hammer by showing that the Supreme Court itself has held that the Due Process Clause of the Fifth Amendment to the U.S. Constitution requires that the Form 1040 must be no different in

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<sup>7</sup> **RECOGNIZANCE**, contracts. An obligation of record entered into before a court or officer duly authorized for that purpose, with a condition to do some act required by law, which is therein specified. 2 Bl. Com. 341; Bro. Ab. h. t.; Dick. Just. h. t.; 1 Chit. Cr. Law, 90. [http://www.constitution.org/bouv/bouvier\\_r.htm](http://www.constitution.org/bouv/bouvier_r.htm) (03/29/12).

principle from one of the only two processes that the King's Exchequer (Treasury) officials used to collect the King's revenues in 1791 (when the Fifth Amendment was ratified as part of the Bill of Rights).

- Moreover, he points out that, of the two processes, the Form 1040 can only mirror or resemble the Exchequer's statute staple contract, bond or deed and can, therefore only bind by consent.
- ¶ 19 makes clear that he does not wish to enter into any voluntary statute staple, although he also makes clear that he intends to file and pay any mandatory tax.
- ¶¶ 20-21 request that the Secretary's determination be made in accord with the applicable sections of the Internal Revenue Code and that he be given notice and demand for the tax so assessed, pursuant to to IRC § 6303. I explain why you need a § 6303 notice more fully in my complete eBook, *Taxation by Misrepresentation*. Bottom line is this: unless the IRS sends such a notice and demand, it cannot collect any taxes by administrative procedures.
- ¶ 22 puts the IRS on notice that he objects to any employee of the IRS taking it upon themselves to obligate him to a statute staple Form 1040.
- ¶ 23 repeats the "Part 1" argument above, namely, that the Secretary has not prescribed any Part 1 regulation for §§ 6203 (Assessment) and 6303 (Notice and demand).
- ¶ 24 is more Golden bridge retreat: If he is incorrect, then the Secretary will have no difficulty in performing the assessment and sending the Notice and Demand without the presence of a statute staple Form 1040 in his IRS files.

In my 35+ years of research, I have never found a single instance wherein the IRS has assessed an income tax upon an individual without the presence of a Form 1040 or its equivalent in the taxpayer's IRS files.

Why? Because the Drafters of the tax Code were well aware of the "pages and pages of history" that I lay out in my eBook, *Taxation by Misrepresentation, the Truth about Income Tax in Plain English*.

They are well aware that the Form 1040 must mirror the Exchequer's statute staple process in order to comply with the due process standards set forth by the *Murray* Court.

They are equally aware that the government itself stated to the Supreme Court that all "standard Service procedures" are based upon *Murray's Lessee*.

As I point out in *Taxation by Misrepresentation*, the Drafters have hewn to the law in every particular. There is nothing at all that I have ever been able to discover in the Internal Revenue Code that fails to resemble or mirror some Exchequer process, although, as you can probably surmise, the name of the English process is never used. That would "let the cat out of the bag," wouldn't it?

- In ¶ 25, Sun Tzu, Jr., administers the *coupe de grâce*<sup>8</sup> by setting forth the evidentiary value of the Secretary's inability to assess the income tax on the receipts listed above without the presence of a statute staple Form 1040 in Sun Tzu, Jr.'s IRS files.

Sun Tzu, Jr., led the IRS Chief Counsel down the path of my research, step-by-step, until the conclusions in ¶ 25 became inescapable.

- ¶¶ 26-28 advise the Secretary that Sun Tzu, Jr., is onto the sly poison buried in the letter the IRS routinely sends out to non-filers. The purpose of that letter is to obtain the non-filer's signature by the taxpayer's default, all done very nicely under the law merchant, which includes the Statute of the Staple, and to overcome the Statute of Frauds in today's Uniform Commercial Code and its federal equivalent.
- ¶¶ 29-34 are designed to invoke the right of Sun Tzu, Jr., under the First Amendment, to petition government for a redress of grievance.
- ¶ 35 is a polite request for the Secretary's determination and assertion, once again, of Sun Tzu, Jr.'s intent to comply with all mandatory revenue laws and regulations.

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<sup>8</sup> The expression **coup de grâce** ( [/kuː də ˈɡrɑːs/](#); French: [ku də ɡʁas], "blow of mercy") means a death blow intended to end the suffering of a wounded creature. The phrase can refer to the killing of civilians or soldiers, friends or enemies, with or without the consent of the sufferer. It is often used figuratively to describe the last in a series of events which brings about the end of some entity; for example: "The business had been failing for years; the *coup de grâce* was the sudden jump in oil prices." [http://en.wikipedia.org/wiki/Coup\\_de\\_grâce](http://en.wikipedia.org/wiki/Coup_de_grâce) (03/31/12).

## What Will the Chief Counsel Do with this Document?

1. Here is the bind in which this document places the Chief Counsel:
  - a) He knows that no IRS official can make an assessment without the presence of a Form 1040 in the taxpayer's IRS files; (I am speaking throughout this book of assessments against an individual's ordinary income, not income from corporate profits and the like.)
  - b) He knows that Sun Tzu, Jr., has pretty well shut the door on slipping a Form 1040 into his IRS files via some IRS official;
  - c) The Chief Counsel knows that he cannot bring the case into the Tax Court, because the Tax Court's jurisdiction can be invoked by the taxpayer only if there is a Form 1040 in his IRS files for the year in question;
  - d) He knows that, if this case proceeds to any other court, it may:
    - i. draw unwanted publicity;
    - ii. cause the judiciary to review the "pages of history" that have, to this point, lain in the dusty stacks of law libraries, safely tucked away from the eyes of the legal profession, the public and the courts;
    - iii. get some public-interest law firms, the ACLU, Cato Institute, or others, to fund some heavy research and publish, thereafter, a scholarly law review article on this topic;
    - iv. cause some deep-pocket individual or corporation to fund such research;
    - v. cause some scholarly judge or magistrate to look into the matter with unwanted results;
    - vi. cause some political candidate to grab hold of the issues in the document and run with it;
    - vii. land on some independent judge's desk who will rule in SunTzu, Jr.'s favor; or
    - viii. end up with a favorable ruling for the IRS.
2. The odds, as you can see, are heavily weighted against the Chief Counsel.
3. Moreover, how will the Chief Counsel even get it into a court other than the Tax Court?

4. He could recommend criminal prosecution for willful failure to file. Let's take a look at that possibility:

a) Here are the elements of IRC § 7203 (willful failure to file an income tax return) as set forth in the Internal Revenue Manual (IRM):

**9.1.3.3.4.1 (05-15-2008)**  
**26 USC §7203 - Elements of the Offense**

The elements of the offense under 26 USC §7203 are:

- A. a legal duty to file an income tax return, supply information, maintain records, or pay a tax for the taxable year charged
- B. a failure to fulfill this legal duty
- C. willfulness

b) As you would probably surmise, it would be very difficult, in my opinion, to convict Sun Tzu, Jr., of willful failure to file based upon his stated willingness to file whatever returns are required, but who is also unwilling to file a return when he does not have the true, correct and complete information required to comply with 26 CFR § 1.265-1 (requiring a statement, in detail, as to his exempt income), especially in light of the fact that he asked for such information from the Chief Counsel and the local Salt Lake City, Utah IRS office).

c) My conclusion, from watching what kind of evidence enables a defendant in a failure-to-file case to obtain a "not guilty" verdict is this: juries don't like it when they feel that the IRS has "sand-bagged" the defendant. While it is true that most Americans believe that you are required to file, they also don't like it when the defendant has exhibited a good-faith intent to comply with the law, but the IRS will not cooperate with his intent to obtain what he (and the jurors) believes he needs to meet his obligation, such as "what law makes me liable." If you read the "not guilty" cases, under 26 USC § 7203, you will find the vast majority of them fall along these lines, namely, where the defendant has badgered the IRS for either the law that makes one liable or, as in this case, asks for some data that the individual needs to comply with the obligations of the tax laws and regulations.

5. I do not want to encourage anybody to follow in Sun Tzu, Jr.'s footsteps, because the IRS may well feel pushed into a corner and feel that it must

file criminal charges, if for no other reason than to stem the tide of such documents.

6. Sun Tzu, Jr.'s 20+ years of preparation, study and sacrifice to gain the knowledge that he now possesses may provide him the wherewithal to wage the battle to a successful conclusion.
7. How many other Americans will be able to wage such a battle victoriously without such knowledge? Not many, in my opinion.
8. However, if millions of Americans were to assimilate this knowledge, the "game" would be over, and Congress would be forced to scrap the current tax system and institute a fair tax of some sort and put an end to the overzealous officials in government who enforce a tax that was written to be voluntary but which, through our collective ignorance, has been forced down the throats of lawyers, accountants, judges and the People.

So, while this is a powerful document, it is only a summary of the more extensive knowledge you should possess, if you want to see and understand the depths of the deception that has been perpetrated on the American People through their elected representatives, the courts, and the woefully ignorant legal profession.

If you don't believe me, go the U.S. Supreme Court website and review a single page of the oral argument on January 14, 2002: <http://bit.ly/GYhsyD> Page 6, where the "Question" is presented by the late Chief Justice Rehnquist as to whether failure to file is a crime. The Assistant to the Solicitor General of the United States, Kent Jones, admits that it may not be a crime, and the Chief Justice laughs and says,

"We'd better not let the word get out. I thought that it was a crime, but I'll check. . . . We'll keep it just among ourselves."

Here we have two of the highest officials in government, sworn to uphold the Constitution, laughing about tax crimes, then having the Chief Justice advising the other justices and the Assistant Solicitor General to keep it a secret from the People. Not my idea of what our public servants ought to be doing in such grave matters.

Maybe that will give you a bit of an idea why I have devoted so much of my adult life to studying this material, so that you, your children and their children

will understand it and do with it what you will.

Sun Tzu, Jr., has taken this knowledge to heart and, from my point of view, is the first individual, in my opinion, who has truly used the knowledge to free himself from the feudal shackles placed upon the rest of us by the IRS. He has not done it by lying, by deception of any kind, but has stated his understanding of the tax laws, their history and the pages of history that provide the foundation of the "standard Service procedures" that the government itself acknowledges form the basis of the IRS practices and procedures today.

What kind of a Nation do we have, today, when the highest judicial body in this Country can sit there quietly while the Chief Justice and the Assistant Solicitor General have a good laugh at the expense of countless Americans who have been defrauded of their homes, their treasure, their liberty and, yes, even their very lives, for some have committed suicide over tax laws that don't exist but that are ruthlessly enforced nevertheless.

"It has been well and truly said that laws are not always promulgated for the benefit of the People. In Japan, for instance, down to the year 1870, laws were addressed only to the officials whose duty it would be to administer them in accordance with the Chinese maxim 'let the people abide by, but not be appraised of, the law.' N. Hozumi on the New Japanese Civil Code 1904."

Holland, *Jurisprudence*, p. 40, n. 2 Tenth Edition (1908).

Not my idea of the principles upon which this Nation was founded. I cannot, for a moment, imagine Thomas Jefferson, George Washington, John Adams, Samuel Adams, Benjamin Franklin, Patrick Henry and others of the great men who formed our Constitution, sitting around, having a good chuckle over their fellow Americans whilst they languished behind prison walls for crimes that never existed. Yet, that's what America has come to today.

Give me a million Americans imbued with the spirit and knowledge of both Sun Tzu and Sun Tzu, Jr., and the Internal Revenue Code would be dead on arrival!

## What Are the Benefits of this Document?

There are several extremely important benefits of this Request for Determination of tax liability for Sun Tzu, Jr.

1. He has built a very powerful administrative record with the IRS;
2. Administrative records are considered very important in any possible future administrative hearings or in court actions, whether civil or criminal;
3. He has a document that was sent to the highest legal professional within the IRS that sets forth his beliefs about and understanding of the laws, practices and procedures employed by the IRS;
4. This document can be used as evidence of his good-faith belief and understanding relative to the laws, practices and procedures relied upon by the IRS in its assessment and collection of the income taxes; and
5. It can be used in the event that the IRS uses its deficiency procedures, under 26 CFR § 6211-1(a).<sup>9</sup>

However, it has been my universal experience that the IRS does not compute the amount of a proposed deficiency until it has determined that a statute staple Form 1040 or variation thereof appears in the taxpayer's IMF or NMF tax records. However, I am also unaware of a single case that I have read in over 35 years wherein the taxpayer or the taxpayer's counsel raised the issue of the Form 1040, namely, that the *Murray* due process rule mandates that it is the modern equivalent of the statutes staple taken and enrolled at the King's

### **9§ 301.6211-1 Deficiency defined.**

(a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11, subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax, (income, estate, gift, or excise tax as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum shall first be reduced by the amount of rebates made. **If no return is made**, or if the return (except a return of income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition "**the amount shown as the tax by the taxpayer upon his return**" **shall be considered as zero**. Electronic Code of Federal Regulations: <http://bit.ly/HHGsVf> (03/31/12). (Bold added).

Exchequer in 1791. The issue drawn, therefore, in such a deficiency proceeding would be as to the constitutional nature and validity of the record that vests jurisdiction in the IRS agents who are computing the deficiency.

Your attorney will discover, if he or she uses the proper discovery tools available, that the IRS agent who placed that statute staple Form 1040 in the taxpayer's files did not sign the return and that he or she does not possess a delegation order authorizing him or her to sign and/or insert any tax return into the taxpayer's files bearing the 1040 designation or its equivalent.

6. However, in my opinion, perhaps the greatest value of this document may well lie in the fact that the IRS would like to keep such knowledge as contained within it and within my comprehensive eBook, *Taxation by Misrepresentation*, out of the hands of the People of this Nation.

To that end, therefore, I doubt that the government will want to give added publicity to my efforts to make this knowledge public by addressing it in any substantive way.

In my numerous court battles with the government on taxes, since 1992, going on 20 years, neither the government nor any court has uttered a single word about my research. They can't, unless, of course, they are willing to go all the way, and they know that they will lose, because the "upon this point, the pages of history" are replete (filled) with the kind of information I have laid out in my eBook and that Sun Tzu, Jr., has laid out in summary fashion in this document.

Frankly, I seriously doubt that the Chief Counsel will give any substantive response to this document. I believe he will reason that it is better, by far, to lose a single battle by ignoring Sun Tzu, Jr., than to lose the entire war by giving it a forum to generate nationwide publicity.

We have all recently noticed how the Obama Administration is fighting the battle over the validity of the President's birth certificate. They essentially ignore it, as do the major media. I think the Chief Counsel will follow the same game-plan.

The very best thing that could happen is to see that this eBook and Sun Tzu, Jr.'s document get spread throughout the Nation so that the people will become aware of the enormous fraud that is being perpetrated upon them by

overzealous IRS agents, Department of Justice prosecutors and judges who are ignorant, corrupt or servile.

I hope you will do your share in this fight to bring truth back into our tax system by spreading the word about this material.

Please, visit my blog at <http://www.empowernetwork.com/JWBenson/>

I attempt to post articles regarding real true about government and other current topics, as I am acutely aware that there is much misinformation, as well as intentional disinformation abroad, these days!

If you want to read my extensive eBook, you may purchase it by visiting here:

TAXATION BY MISREPRESENTATION – Why Read this eBook!

<http://bit.ly/xLUijo>

## **DISCLAIMER**

I am not an attorney and cannot, therefore provide you with any legal advice. If you choose to do anything with this material, I urge you to consult with a licensed attorney before doing so. This material is published strictly for your education. I urge you to file the normal tax returns and pay the normal taxes required by the IRS and the courts.

Good attorneys in the area of tax laws are hard to come by. I have known the following two attorneys for some 15 years. They have both agreed to advise you on any tax issues as it relates to the laws and facts I have uncovered in my 35+ years of research, if you establish an attorney-client relationship with them.

I know them both to be vigorous advocates of their clients' defenses against the government, especially when the government has "dirty hands," as is often the case in the area of tax laws.

I also know them both to be possessed of inestimable character, honesty and dedication to their clients' interests and vigorous defenses.

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