UNITED STATES TAX COURT

Francis Steffan Petitioner	}	Electronically Filed
v.	}	Docket No. 12037-17
COMMISSIONER OF INTERNAL REVENUE, Respondent	}	

OPENING BRIEF FOR PETITIONER

PRESENTING HIS OWN CASE:

Francis Steffan one of the People.

A Man created in the image of God.

A Man, not evolved, but created as proclaimed within the Christian Holy Bible at Genesis 1: 26-28

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PRELIMINARY STATEMENT

Petitioner filed his petition to the tax court on 05/30/2017, attempted gather evidence from Respondent and was ignored filed a motion for leave to conduct discovery and was denied by Judge Halpren, Petitioner has been prevented from conducting discovery in this case. A tax trial was conducted in Portland Oregon on 12/11/2018 with Judge Patrick J. Urda presiding, none of Petitioners evidence would be allowed as no matters of law are accepted at trial as Petitioner was directed by Judge Urda. Petitioner intends to show a misapplication of statute by Respondent against Petitioner, unconstitutionally vague and ambiguous statute, and several severe instances of bad faith on Respondent's part.

This all started long ago, over a decade, when Petitioner compiled a book called “The Commerce Game Exposed.” This book explained one particular tax avoidance theory involving accepting IRS “notices of” liens and levies for value. After awhile, Petitioner does not recall exactly how long, of making this book available the IRS contacted Petitioner and demanded, with threats of tax fraud, he stop

exercising his first amendment protected God given Right to free speech and the freedom of the Press.

Petitioner shortly thereafter determined that the amount of books being distributed did not justify the danger that Respondent posed to Petitioner and discontinued advertising the book.

Nevertheless, Respondent followed through with their threats to Petitioner concerning tax fraud and set out to conduct a tax fraud investigation against Petitioner. To which, obviously and stated in a letter from the IRS ending that investigation, came up with no tax fraud whatsoever.

There was never any evidence of "tax fraud," however Respondent used Petitioner's exercise of his first amendment protected God given right of free speech and that of a free press as a pretext to open an investigation in order to create the illusion of legitimacy for their subsequent audit and "1040 investigation" of petitioner and American Voice Radio Network.

In reality, Respondent targeted Petitioner solely based on his political views and his deep enmity towards Respondent and his minions activities.

This political targeting is further evidence within the purported "returns" where "rae cook" takes issue with the fact Petitioner allows Marcel Roy Bendshadler to speak his views.

The Internal Revenue Manual (IRM) at 4.12.1.3-1 states that "The enforcement period is not to be more than six years," yet Respondent has elected to go back fourteen (14) years, twelve(12) years when the ninety day letter was received. Why?

The same IRM 4.12.1.3-1(a)(b)(c)(d)(e) also allows for longer or shorter enforcement under certain criteria. Such as, The taxpayer's prior history of noncompliance, The existence of income from illegal sources, The effect upon voluntary compliance, The anticipated revenue in relation to the time and effort, required to determine tax due and/or any special circumstances existing in the case of a particular taxpayer, class of taxpayer, or industry, or which may be peculiar to the class of tax involved.

In line with all the other numerous instances of dishonesty Respondent's IRM restriction of six years is made completely imaginary, at Respondent's discretion at IRM 4.12.1.3-1(e).

What is not destroyed is IRM 4.12.1.3.1-1 which states, "Management approval is necessary if the enforcement activity is less than or exceeds the six-year period." It also states, "Detailing the reasons

on Lead Sheet 130, *Multi-year and Related Returns Lead Sheet*, why enforcement for the longer or shorter period is recommended."

Petitioner can find no "Lead Sheet 130" or any document where "management" has approved this more than doubling of the time to go back normally allowed within the evidence submitted by Respondent.

The above mentioned circumstance adds to Petitioner's claim that Respondent targeted Petitioner based on his political views concerning government in violation of the protections set forth within the First and Ninth Amendment to the United States Constitution.

Let's not forget Respondent targeted Petitioner with a criminal investigation because he was selling a book. Not only is selling books protected by the free speech clause of the First Amendment to the United States Constitution but also by the freedom of the Press clause of the same Amendment. The unanimous Declaration of the thirteen united States of America states in part, "...they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." These unalienable Rights are protected by the Ninth Amendment.

While Petitioner openly admits his total animus towards Respondent, and his minions, it is not based on anything personal or even the

fact Respondent is the tax collection authority for the United States. Petitioner understands that some taxing scheme is necessary to run a government.

However, it is Petitioner's firmly held belief based on statute, regulation, fact and reason that Respondent is deliberately misapplying statutes and regulations to people outside the authority and application of those statutes and regulations.

Misapplying statutes and regulations would be one matter, however, Respondent, and his minions, do every underhanded and misleading thing to cover up the fact that everyone does not have a tax liability, everything is not "income," ALL returns must be signed under penalty of perjury in order to be a valid "return" of any kind, and every man is not a person.

One illustration of this is Respondent deliberately misrepresenting 26 USC/IRC Sec. 6651(g)(2) on the face of form 13496, the purported "return" itself. Respondent misrepresents the word "return" with "this certification, with attachments." Why?

Petitioner has come to learn the four prongs that are necessary for a purported "return" to be valid. What Respondent has entered into evidence does purport to be a "return," that's one. Also, as long as we don't trouble ourselves with the actual accuracy and honesty of

the data contain within the purported "return," it does contain sufficient data to allow calculation of tax, that's two. However, ALL FOUR prongs must be satisfied to constitute a valid "return."

The purported "return" Respondent has entered into evidence, over Petitioner's objections, fails to include an "under penalty of perjury" jurat, and in no way can it be considered an honest and reasonable attempt to satisfy the requirements of the tax law. In this instance even a 99.9% grade is failing, all four prongs must be satisfied to constitute a valid "return."

Petitioner admits a certification, with attachments "could" be a valid "return," so one may ask, "what's the big deal with changing the word 'return' to 'this certification, with attachments?'"

The big deal is that 26 USC/IRC states very clearly along with the CFR, voluminous case law and even Respondent has stated that "returns" MUST be subscribed under penalty of perjury and if they are not they are not a valid "return" and are in fact and law a nullity. However, 26 USC/IRC and the CFR is silent on requirements for certifications and attachments purporting to be a "return."

Petitioner believes, based on fact, reason, past performance and reputation, that the deliberate misrepresentation of the word "return" on the face of form 13496 is a scheme to mislead people such

as Petitioner into not realizing that the pile of nonsense that is purported to be a "return" is simply just a pile of paper signed by a guy/girl who may or may not be using a false name. It is a design to distract Petitioner away from the fact that in order for that pile of paper to be a valid "return" it must be subscribed under penalty of perjury and it must be honest and reasonable. Simply by not being subscribed under penalty of perjury dispels any claims of "honesty" as by refusing to sign under penalty of perjury one must, and Respondent does when it goes the other way, conclude dishonest intent. The code allows for the punishment of this.

It is clear the purported "returns" do not contain the required jurat but the purported "returns" also are not an honest and reasonable attempt to satisfy the requirements of the tax law.

Petitioner does not argue that Respondent "attempts" to satisfy the requirements of the tax law, however, Petitioner absolutely denies, rejects and opposes any claim that the attempt has been honest or reasonable.

It is not reasonable or honest to misrepresent the USC/IRC on the face of evidence entered into a US Court and sent through the US mail or commercial carrier to Petitioner in an attempt to deceive and fraud Petitioner out of his Right to the full protection of the law.

It is not reasonable or honest to knowingly enter into evidence paper purporting to be a "return" that is known, or should be known, by professional tax attorneys to not be a valid "return."

It is not reasonable or honest for someone using a false name to then, under oath, swear to God that false name is their real and proper name.

It is not reasonable or honest to audit, assess or collect outside of a Revenue District. No information contained within the purported "return" can be allowed into evidence if, at this point, it cannot be demonstrated it was collected within a Revenue District and that Petitioner resides within that Revenue District. Respondent's witness, Micheal Sumner, testified at trial, when asked, that he did not know if he operated within a Revenue District, which Revenue District he operated within or which Revenue District Petitioner is purportedly in.

It stands to reason that if a highly trained, well paid professional IRS agent doesn't know which Revenue District he is operating within or if he is operating within a Revenue District at all or if the target of his examination resides within a Revenue District, and can evidence that, then it must be presumed he is not operating within a Revenue District. Petitioner has never knowingly or willingly entered a Revenue District.

The misrepresentation and dishonesty doesn't stop here.

The purported “returns” in this case are supposed “returns” generated under the authority of 26 USC/IRC Section 6020(b). The problem with this is that all the implementing regulations dictating the legal enforcement of 26 USC/IRC Section 6020(b) are found in 27 CFR Part 53 & 70.

The introduction of Part 53 clearly states, “The regulations in this part (part 53, subchapter C, chapter I, title 27, Code of Federal Regulations) are designated “Manufacturers Excise Taxes - Firearms and Ammunition.” The regulations relate to the tax on the sale of firearms and ammunition...”

The scope of Part 70 is clearly states, “The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Alcohol and Tobacco Tax and Trade Bureau

Simply put, 26 USC/IRC Section 6020(b) allows that, “If any person fails to make any return required by any internal revenue law...the Secretary shall make such return...Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.”

Unless activities that fall under the purview of 27 CFR Part 53 and/or 70 are “honestly” identified, disclosed and attributed to

Petitioner; 26 USC/IRC Section 6020(b) only authorizes the secretary to make a "return" and simply states it is good and sufficient for all legal purposes at first glance. It authorizes no other actions. Respondent must rely on implementing regulations to carry out what has been authorized by law. For 26 USC/IRC Section 6020(b) those regulations are found at 27 CFR Part 53 & 70 a set of regulations that regulate activities Petitioner is not and has never been involved in and therefore not subject to their enforcement upon him.

Respondent is misapplying statute and regulation upon Petitioner. The fact is tax compliance is voluntary for most Americans, as most do not fall under the purview of the requirements of the code. Most Americans are not engaged in the privileged activity of making "income." Petitioner chooses not to volunteer to make a "return" that he is not liable, by written law and United States Supreme Court rulings deciding the definition of "income," to make.

Another reason tax compliance must be voluntary is the fact it takes many hours of tedious labor to correctly and thoroughly fill out a tax "return" which if it was not "voluntary" it would be involuntary servitude or slavery to require labor under threat of punishment.

In order for a tax "return" to be valid it must be signed under penalty of perjury. Anytime anyone signs anything they are signifying knowledge, approval, acceptance, or obligation and when signed under penalty of perjury volunteer to be held criminally liable for any untruths or dishonest statements.

It is no wonder Respondent would prefer not to step into the same perjury trap they expect others to step into. Nevertheless, the fact remains, only a purported "return" subscribed under penalty of perjury is a valid "return."

Are forced confessions valid in the United States? Is a signature made under duress of punishment a valid signature?

As "voluntary" does not appear to be defined within 26 USC/IRC Petitioner submits the common usage definition from the Merriam-Webster Dictionary: proceeding from the will or from one's own choice or consent, unconstrained by interference, done by design or intention, of, relating to, subject to, or regulated by the will, having power of free choice, acting or done of one's own free will without valuable consideration or legal obligation.

Even Respondent admits that signing and filing a tax "return" is voluntary, one example is at IRM 4.12.1.1 which states, "Securing a valid voluntary tax return from the taxpayer (delinquent return), or..."

Using the common language definition above it appears by Respondent stating that they secure valid "voluntary tax return from the taxpayer" they admit that Petitioner has no legal obligation to provide a tax "return" but simply volunteered to make a contribution. Or, is Respondent once again engaged in misrepresentation and fraud by calling it a "voluntary tax return" and then punishing those who exercise their power of free choice and decline to volunteer, it is one or the other.

Petitioner believes based on law and reason the reason 26 USC/IRC Section 6020(b) has its enforcement/implementing regulations at 27 CFR, mandatory tax regulations based on activities relating to specific regulated and taxed activities, is that the 6020(b) "return" is only legally implemented upon a tax/activity/taxpayer that is licensed, engaged, regulated and taxed for a specific activity or privilege set forth within those specific regulations.

To wit, if an American chooses to exercise their free will and not volunteer to be liable for a tax they have no legal liability to be

liable for then Respondent is left sucking wind. All Respondent can do is fraudulently convert that American from the voluntary taxing scheme into one of the mandatory excise tax category regulated by 27 CFR Parts 53 & 70. This is also not honest and reasonable.

As one can see, 26 USC/IRC Section 6020(b) begins in stating, "If any person fails to make any return required by any internal revenue law..." Without specifically identifying within the code which internal revenue law it is that Respondent relies upon that creates a liability for Petitioner to make a "return" 26 USC/IRC Section 6020(b) is vague and ambiguous and commands nothing.

26 USC/IRC Section 6020 contains no directive to do anything other than the Secretary to make a "return." Other than to make such "return" 26 USC/IRC Section 6020 completely relies upon 27 CFR Parts 53 & 70 to regulate further enforcement. 26 USC/IRC Section 6020 is therefore misapplied to Petitioner as he is not and has not been engaged in the regulated and taxed activities or privileges within 27 CFR Parts 53 & 70.

Respondent claims on their website that "The requirement to file an income tax return is not voluntary and is clearly set forth in sections 6011(a), 6012(a), et seq., and 6072(a) of the Internal Revenue Code."

However, 26 USC/IRC Section 6011(a) states, “When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return.” “When required” is not a directive and regulations cannot create a liability for any but those involved in the regulated activities and even they must produce “income” to be liable under 26 USC/IRC.

The wording in 26 USC/IRC Section 6011(a) is akin to command someone in a basement with no way to know what is happening outside that, “you must wear a red shirt when its raining, or else we punish you.” This is capricious at best.

26 USC/IRC Section 6012(a)(1)(A) states, ”with respect to income taxes under subtitle A shall be made by the following: Every individual having for the taxable year gross income which equals or exceeds the exemption amount,...”

What's that you say, “gross income?” “Gross income” is defined within the code as “income” an unknown and undefinable term from within the code.

26 USC/IRC Section 6072(a) states, “In the case of returns under section 6012, 6013, or 6017 (relating to income tax under subtitle A), returns made on the basis of the calendar year shall be filed on

or before the 15th day of April...”

26 USC/IRC Section 6072(a) refers to “returns” filed pursuant to 6012, 6013, or 6017. 26 USC/IRC Section 6013 states, “A husband and wife may make a single return jointly of income taxes under subtitle A, even though one of the spouses has neither gross income nor deductions, except as provided below:” Section 6013 does not apply in Petitioner's case however the same “gross income” being defined as “income” within the code is still a problem for the codes purported lawfulness.

26 USC/IRC Section 6017 states, “Every individual (other than a nonresident alien individual) having net earnings from self-employment of $400 or more for the taxable year shall make a return” As one can see 26 USC/IRC Section 6017 uses a different term, “net earnings from self-employment” which when we look up the definition within the code it is defined as “The term 'net earnings from self-employment' means the gross income...” Is the circular reasoning, misdirection and deception clear yet?

The code uses several terms that all end up meaning “income” which is undefined and undefinable within the code or any other legislative act for that matter.

Petitioner has requested of Respondent, several times, specifically in writing, to disclose which law Respondent relies upon that leads Respondent to believe that Petitioner is one liable to make a "return." Respondent has replied, when they replied at all, that to ask that necessary "question" is frivolous argument and have never disclosed.

Is it reasonable and honest to expect a random man or woman to hand over money to a stranger, or a known liar and thief, based only on a claim made by that stranger, or a known liar and thief, without even asking how the debt was incurred or why he or she owes it?

And when disclosure of the nature of the claimed debt is refused by the stranger or known liar and thief by simply answering, "never you mind, just gimme the money or else." Would that be considered reasonable and honest or would it be considered strong-arm robbery or just extortion?

Then we have the issue of "income." While there are many other issues, the fact is, regardless of all the other many reasons to invalidate Respondent's claims against Petitioner, "income" and only "income" is used to calculate the amount of tax liability, if there is no "income" there is no liability.

It would seem that determining what exactly “income” consists of would be a necessity. Yet 26 USC/IRC does not specifically define “income.” Why?

“Income” is not defined within the code because it cannot lawfully do so. The legislature, the only law making body for the United States, is prevented from defining terms used within the United States Constitution as to do so would in reality amend the constitution in a way outside their authority to do so, it would be unlawful to do so.

The legislature rarely lets a minor issue of honesty and lawfulness get in the way of what they want to do so instead of straight out violating the constitution they play deceptive circular word games.

While the legislature cannot specifically define “income” they do define “taxable income” as being “gross income” minus deductions. That's really great except then they define “gross income” as “income,” an unknown and undefinable from within the law, term.

Lacking a definition of “income” leaves 26 USC/IRC, by itself, as a vague, ambiguous, arbitrary and capricious law that is therefore a nullity and void from it's inception.

And yes, the whole of 26 USC/IRC would be unconstitutional as the subject of the whole code is “income” tax, even excises that use “income” to calculate the tax would be void if we can not know, in

law, the specific meaning of “income.”

Not to worry, the United States Supreme Court came to the rescue of the tax code. The United States Supreme Court has in fact lawfully defined “income” using the same definition found in tax laws that use “income” to calculate the amount of tax liability prior to the adding of the sixteenth amendment to the body of the United States Constitution.

The United States Supreme Court defines “income” as 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.

So, either 26 USC/IRC is vague, ambiguous, arbitrary, capricious and a nullity, void from it's inception or The United States Supreme Court definition stands as the definition for “income” concerning United States tax law.

Under the definition the United States Supreme Court has applied to United States tax law Petitioner recalls no “gain” or “profit” and nevertheless, he certainly has not and is not involved in any corporate activity or franchise and therefore had created no “income.”

Petitioner understands that there are in fact some arguments that are rightfully deemed “frivolous.” However, that determination cannot be arbitrarily made by Respondent by means of simply writing down all the arguments they would prefer not to have to address on the merits and deeming them “frivolous.”

Nor can a United States Court dispose of a Petitioner's positions prima facie without giving the arguments and evidence the full consideration of law and reason, to do so would deny Petitioner substantive Due Process.

Arguments can be similar, circumstances can be similar, people can be similar however to be similar is not to be the same and every man or woman that enters a United Sates Court or administrative hearing has a Right to receive Due Process.

One major part of “Due Process” is the Right to be heard.

If an argument or position is to be deemed “frivolous” then it must be done by reading the argument, examining the legal cites and evidence and then coming to a decision based on the argument, the evidence, statutory and case law. To simply accept a Petitioner's position or argument as “frivolous” because Respondent wrote it down somewhere and told ya so, is a gross denial of Due Process.

Even if the court itself has deemed a prior argument “frivolous” each case is different, the particular circumstances are different, each Petitioner is different and each Petitioner has a Right to have his arguments heard and the law and evidence thoughtfully examined in order for the court to come to a just and lawful decision. Anything less is a denial of Due Process.

We live in a country where it's laws claim it affords “equal protection under the law.” The same nation allows people born with functioning male genitalia to claim they are female, and vice versa, only because they say so with no other evidence justifying that claim, and even when there is overwhelming evidence against the claim, are protected in this claim by US courts. Petitioner, Francis Steffan must certainly be afforded the same protections to determine the nature of who and what he is, without being deemed frivolous and punished, in this nation of equal protection under the law.

Petitioner, Francis Steffan is a Christian man created in the image of the Christian God as set forth in the authorized version of the King James Holy Bible, Genesis 26-28. This is Petitioner's deeplyand firmly held religious belief and Petitioner at all times fully exercises his right to worship Almighty God according to the dictates of his own conscience and no law prohibiting the free

exercise of that right may be enacted, The State of Oregon constitution Article I, Section 2 & 3 and The United States constitution Amendment I.

Petitioner is not an “evolved man,” other kind of animal man, derivative, related to or a subset of man. Therefore, based on Petitioner's deeply held religious beliefs Petitioner is not a “person,” “human being” or other animal creature known as a “homo sapien.”

Petitioner is not claiming a religious exemption to ”paying taxes” but is claiming and exercising his status as a man made by God in the image of God who has dominion over the “animals” of the earth and therefore cannot be an “animal” of any kind or any other thing that is not a King James Holy Bible, Genesis 26-28 “man.”

The word “person” comes directly from Latin “persona” meaning, person, personage; a part in a drama, assumed character," originally "a mask, a false face," such as those of wood or clay worn by the actors in later Roman theater. The general nineteenth century explanation of persona is as "related to." Latin personare is "to sound through" (i.e. the mask as something spoken through and perhaps amplifying the voice), "but the long o makes a difficulty ...." Klein and Barnhart say it is possibly borrowed from Etruscan phersu "mask."

26 USC/IRC Section 7701(a)(1)states, “The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

When looking at the definition of “person” from 26 USC/IRC Section 7701(a)(1) one must ask, an individual what? “Individual” alone does not denote any specific or particular “thing” it simply denotes a singularity of what ever “thing” is the subject being modified / described.

“Individual” is not defined within 26 USC/IRC.

Again we have a term, not defined within the code, that the code presumes to make liable to make a “return.” This makes any part of the code that presumes to impose a liability on a “individual” vague, ambiguous, arbitrary, capricious and a nullity, void from it's inception.

Maybe we can discover “'individual' what” by the context? In 26 USC/IRC Section 7701(a)(1) “individual” is the first term in a list of seven. After “individual” is listed, a trust, estate, partnership, association, company or corporation. One thing all six listings have in common is that they are all not created by God, not alive, artificial “things” created by “man.”

If we are to take the context as a guide to figure out what "thing" "individual" refers too we must conclude it must mean a singular trust, singular estate, singular partnership, singular association, singular company or singular corporation. In any regard, "individual" must be describing the singular nature of some "thing" artificial, not living.

Is it normal to categorize six similar "things" together yet have one thing as dissimilar as dead versus alive, in the same category? Is it honest and reasonable?

Petitioner contends, they are not dissimilar at all.

We know the root meaning of the word "person" is, and has been since the thirteenth century, "related to" a man or woman presenting an assumed character, a mask, a false face. That sure sounds a lot like a trust, estate, partnership, association, company or corporation.

Nevertheless, a mask or assumed character is not a "man," not alive and not created by God.

Perhaps that is why the United States Supreme Court declared corporations as "persons" in Pembina Consolidated Silver Mining Co. v. Pennsylvania [125 U.S. 181 (1888)] and have consistently reaffirmed that position over the years since 1888.

The unanimous Declaration of the thirteen united States of America states in part, We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

The unanimous Declaration of the thirteen united States of America did not state that all "persons" are created equal or that "persons" are endowed by their Creator with certain unalienable Rights. Why not?

The founding fathers of this nation understood that a "person" and a "man" are not the same.

To force the status of "person" upon any American is to deny them the unalienable Rights declared within the unanimous Declaration of the thirteen united States of America as they apply only the "men."

Petitioner is not saying women are excluded. Woman is a subset of man and entitled to all Rights of man other than those specifically reserved.

Here in the United States a "person" can in fact own another "person," it happens all the time. One "person" named Bayer just purchased another "person" named Monsanto and a "person" named Disney just purchased another "person" named Fox. However, in the United

States men and women are not legally or lawfully permitted to purchase other men and women and own them. Petitioner cannot legally or lawfully be sold, purchased or owned, as a "person" can, and therefore cannot be a "person."

To claim Petitioner is a "person" then encumber him with the obligations of that character yet not permit Petitioner the liberty to purchase other men and women, who are no doubt classified as "persons" by Respondent, is a clear and serious violation of equal protection of the law. Is "person" become a Title of Nobility?

However, it may not be as a serious violation of the equal protection of the law as the fact that a certain "caste" of "person" can be found guilty of a heinous crime yet never have their life, liberty and pursuit of happiness imprisoned in a cage.

Yet this is not true for Petitioner. If Petitioner is found to be negligently responsible for the death of fifteen people he will be imprisoned. Yet a "person" named BP did just that in Texas City, Texas in 2005 and was fined only. Then the "person" known as BP did it again in 2010 with the Deepwater Horizon disaster was fined and is still allowed to go on as normal.

All "men" are created equal in Right but apparently all "persons" are not created equal in Right or law.

Petitioner is not claiming a religious exemption to ”paying taxes” but is claiming that to encumber him with the character of “person,” against his will and religious convictions, yet is denied the same legal protections and immunities as certain other “caste” of “persons” is not only a violation of the First Amendment to the United States Constitution, the Ninth Amendment but also a violation of the constitutional concept of equal protection under the law.

“Human being” is defined in the Oxford Dictionary as, “A man, woman, or child of the species Homo sapiens, distinguished from other animals by superior mental development, power of articulate speech, and upright stance.” Other animals?

Homo sapien is a term from the evolution religion that describes one category of animal. We must presume The United States government did intend to use the term “Homo sapien” at 1 U.S. Code Sec. 8(a), making “man” part of the animal kingdom as they do it again at 21 USC Section 321(g)(1), “intended to affect the structure or any function of the body of man or other animals;” “Other” animals? Really?

At Genesis 1:26 “man” is given dominion over the animals of the earth and therefore cannot be an animal or any kind whatsoever.

Nevertheless, Petitioner, Francis Steffan is a Christian man created in the image of the Christian God as set forth in the authorized version of the King James Holy Bible, Genesis 26-28 and nothing else.

To make a law respecting one religion over another is a severe violation of the First Amendment to the Constitution of the United States. The “theory” of evolution is conjecture and a specific fundamental set of beliefs that many people adhere to, in other words, religion. All religion have one thing in common and that is the belief in something that cannot be proved. Science on the other hand is that which is observable, repeatable, testable, and predictable, evolution is not science it is religion and for The United States government to pass laws purportedly dictating the nature of what I am based on a religion they like better than mine is a violation of the First Amendment and a deprivation of Petitioner Rights.

Furthermore, to classify Petitioner as ANYTHING other than “a man made in the image of God” is also a violation of the Ninth Amendment, and again, a deprivation of Petitioner's Rights.

QUESTIONS PRESENTED

1. Is "Income" defined within 26 USC/IRC?

2. Can "Income" be legally or lawfully defined within 26 USC/IRC?

3. Are circular rhetorical definitions valid definitions in law?

4. Is it honest and reasonable to define "taxable income" as "gross income" then define "gross income" as "income" within 26 USC/IRC?

5. Is the United States Tax Court subject to United States Supreme Court decisions?

6. Has the United States Supreme Court generally defined "income" as a gain or profit from corporate activity?

7. Is the "activity" that produces "income" the subject of the tax?

8. Is "income" used to calculate the tax liability amount of a taxable activity?

9. Is "income" itself the subject of the tax?

10. Can the subject of the tax be an undefined, vague and ambiguous term within 26 USC/IRC?

11. Is "profit" a gain realized from business or investment over and

above expenditures?

12. Is a "gain" profits; winnings; increment of value.

13. Is the labor of a man a commodity or article of commerce.

14. Does a man have a Right to exchange what he has for what he needs?

15. Can the "state" impose a charge for the enjoyment of a right granted by the Federal Constitution, such as the Right to engage in the common occupations of life??

16. Is a law that interferes with the obligations of a contract between People valid and constitutional?

17. Is "labor" taxed under the authority of 26 USC/IRC?

18. Is 27 CFR Parts 53 & 70 the implementing/enforcement regulations for 26 USC Section 6020(b)?

19. Is Petitioner involved in any regulated and taxed activities contained within 27 CFR Parts 24,25,53 or 70?

20. Is Petitioner subject to any requirements or obligations found within 27 CFR Parts 24,25,53 or 70?

21. Does 26 USC Section 6020(b) authorize the Secretary to make such return from his own knowledge and from such information as he can obtain through testimony or otherwise?

22. Does 26 USC Section 6020(b) authorize the "Secretary" to DO anything other than "make such return?"

23. Does Internal Revenue Manual (IRM) 5.1.11.6.7 allow for a 1040 tax 6020(b) "return" to be made?

24. Are the regulations found within the Code of Federal Regulations(CFR) necessary to bring action to law?

25. Has inaccurate and fraudulent information pertaining to Petitioner been entered into the Internal Revenue Service Individual Master File (IMF Complete) in order to "make" a 6020(b) purported "return?"

26. Is it reasonable or honest to refuse Petitioner's repeated requests to have supplied to Petitioner by Respondent the Individual Master File (IMF Complete)?

27. Is it due process to deny Petitioner discovery?

28. Is 26 USC/IRC section 6020(b) and the corresponding regulations being misapplied to Petitioner?

29. What constitutes a valid "return?"

30. Is any purported "return" valid without a signed "under penalty of perjury" jurat?

31. Is any purported "return" valid without being reasonable and honest?

32. Is 26 USC/IRC section 6020(b) purported "return" entered into evidence by Respondent subscribed "under penalty of perjury?"

33. Is it reasonable and honest to misrepresent the United States Code on the face of 26 USC/IRC section 6020(b) purported "return" entered into evidence by Respondent?

34. Is it reasonable and honest for a witness involved in "making" the "return" to lie under Oath?

35. Is "resident" defined within 26 USC/IRC?

36. Is "United States citizen" defined within 26 USC/IRC?

37. Is there more than one meaning of "United States?"

38. Can a man or woman be a Citizen of one of the several States of the perpetual union styled as The United States of America and not be a citizen of the "United States?"

39. Is Petitioner's Right to choose the nature of his existance protected to the same degree as a man with working male genitalia claiming to be female?

40. Is Petitioner's Right to freely exercise his religious beliefs protected?

41. Is “person” synonymous with “man” created by God?

42. Is “individual” defined within 26 USC.IRC?

43. Is Petitioner one required by law to make tax “returns?”

44. What is the specific law that obligates Petitioner to file a tax “return?”

PETIONER'S REQUEST FOR FINDINGS OF FACT

Petitioner respectfully requests this court to find the following facts:

1. The United States Tax Court is obligated to follow the decisions of the United States Supreme Court. [DE GROOT v. UNITED STATES 72 U.S. 419 (5 Wall. 419, 18 L.Ed. 700)

2. The Sixteenth Amendment has no enabling clause.[self evident]

3. The Sixteenth Amendment can enable no law whatsoever.[self evident]

4. The Sixteenth Amendment was only to address the United States Supreme Court ruling in Pollack. [Brushaber v. Union Pacific R. Co., 240 U.S. 1 (1916)]

5. The Sixteenth Amendment conferred no new power of taxation. [Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]

6. The United States Supreme Court has defined "income" generally as, profit or gain from corporate activity. [Doyle v. Mitchell Brothers, Co., 247 U.S. 179]

7. Congress taxes "income" not compensation. [Conner v. U.S., 303 F Supp. 1187 (1969)]

8. One does not 'derive income' by rendering services and charging for them. [Edwards v. Keith, 231 F. 110 (2nd Cir. 1916)]

9. All monies that come in is not "income."[Southern Pacific v. Lowe, US. 247 F. 330. (1918)]

10. Interpretive regulations cannot make income of that which is not income.[Helvering v. Edison Bros. Stores, 133 F2d 575. (1943)]

11. The labor of a man is not a commodity or article of commerce. [15 USC Sec. 17]

12. Form 1549-A, entered into evidence, shows on its face "Return Form No. 1040." [in evidence]

13. Internal Revenue Manual (IRM) 5.1.11.6.7 does not allow for a 1040 tax 6020(b) "return" to be made.

14. Petitioner has been denied the opportunity of discovery in this proceeding.[on the record - Order - January 11, 2018 & August 21, 2018]

15. Every man shall have remedy by due course of law for injury done him in his person, property, or reputation. [State of Oregon constitution Art.I sec.10]

16. Respondent's witness "rae cook" lied under Oath when she swore her name is "rae cook."[transcript]

17. "Resident" is not defined within 26 USC/IRC.

18. "United States citizen" is not defined within 26 USC/IRC

19. "Individual" is not defined within 26 USC/IRC

20. "Person," as defined within 26 USC/IRC, is not synonymous with "man".

21. All men shall be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences. [State of Oregon constitution Art.I sec.2]

22. **No law shall in any case whatever control the free exercise, and enjoyment of religeous [sic] opinions, or interfere with the rights of conscience. [State of Oregon constitution Art.I sec.3]**

23. **Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.[United States Constitution Amendment I]**

24. **Petitioner's Rights to freely exercise the dictates of his religious conviction, without prohibition or interference are protected by this court [Declaration of Independence]**

PETIONER'S REQUEST FOR ULTIMATE FINDINGS OF FACT

25. **26 USC/IRC Section 6020(b) purported "returns" entered into evidence are not subscribed under penalty of perjury.**

26. Any purported "return" that is not subscribed under penalty of perjury is not a valid "return."

27. "Returns" entered into evidence by Respondent into this case are not valid "returns."

28. Respondent has misrepresented 26 USC/IRC Section 6651(g)(2) on the face of Form 13496, purported "returns," entered into evidence. [in evidence]

29. Whoever deposits or causes to be deposited through the US Post Office or commercial carrier any matter or thing for the purpose of executing any scheme or artifice, attempting to do so for obtaining money or property by means of false representations commits a crime.[18 U.S. Code Sec. 1341]

30. It is not "reasonable and honest" to misrepresent the United States Code / Internal Revenue Code on the face of purported "returns" entered into evidence.[18 U.S. Code Sec. 1341, Beard v. Commissioner, 82 T.C. 766, aff'd per curiam, 793 F.2d 139 (6th Cir. 1986)]

31. 26 USC Section 1 states in part, "There is hereby imposed on the taxable income of..."

32. "Taxable income" means, "gross income" minus the deductions allowed.[26 USC Sec. 63(a)]

33. "Gross income" means, all "income" from whatever source derived.[26 USC Sec. 61(a)]

34. "Income" cannot be defined within any legislative act whatsoever. [EISNER v. MACOMBER, 252 U.S. 189 (1920)]

35. 26 USC Section 1 "imposes" a tax on a thing unknown, undefined and undefinable from within any legislative action.

36. 26 USC Section 1 is vague and ambiguous, a nullity and void from its inception.

37. 27 CFR Parts 53 & 70 are the implementing/enforcement regulations for 26 USC/IRC Section 6020.[PARALLEL TABLE OF AUTHORITIES AND RULES,govinfo.gov/media/parallel_table_2016.txt]

38. 26 USC/IRC Section 6020(b) authorizes the "Secretary" to DO nothing other than "make such return."

39. 27 CFR Parts 53 & 70 are the regulations that give action to 26 USC/IRC Section 6020(b) enforcement.

40. There is no claim or evidence that Petitioner has been or is exercising any regulated and taxed activity or privilege Regulated by any provisions of 27 CFR Parts 53 & 70, and Petitioner denies it.

41. 26 USC/IRC Section 6020(b) is misapplied to Petitioner.[27 CFR Parts 53 or 70]

POINTS RELIED UPON

26 USC/IRC Section 1 uses terms that are circularly defined as "income." "Taxable income" means "gross income" minus deductions and "gross income" means "income." "Income" may not be legislatively defined as it is a term used within the constitution. For Congress to define "income" within a statute would in effect and law amend the Constitution in an unlawful manner.

26 USC/IRC Section 1, which 26 CFR Section 1.1-1(a)(1) claims imposes an "income" tax on the "income" of every "individual" who is a "citizen" or "resident" of the United States, imposes an "'income' tax" on an unknown, undefined, undefinable and unknowable thing from within the law. This makes any law making "income" the subject of its enforcement or calculations vague, ambiguous, arbitrary, capricious and a nullity, void from it's inception.

The United States Supreme Court has numerous times defined "income" as having the same meaning as it had in United States tax laws prior to the purported ratification of the Sixteenth Amendment. Their decisions generally define income as importing something distinct

from principal or capital, and conveying the idea of gain or profit arising from corporate activities. This can be the only authoritative and lawful definition of "income" to be used within 26 USC/IRC.

On the face of the "returns" entered into evidence by Respondent, and objected to by Petitioner, purportedly authorized by 26 USC/IRC Section 6020(b), Respondent purposefully misrepresents 26 USC/IRC Section 6651(g)(2) on the face of Form 13496 which is presented "as" a "certification." It is not reasonable to misrepresent the law on the face of "evidence" entered into a United States court purporting to be a certification, or anything else for that matter, and it is impossible to comprehend it be considered honest. It is prima facie fraud.

While 26 USC/IRC Section 6020(b)(2) does declare that "Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes" it qualifies that declaration as "prima facie," or at first glace on its face. This qualifier converts the otherwise declaration into a presumption, which can be, and is rebutted within this briefing.

Any "return" in order to be valid must be subscribed with the jurat under penalty of perjury. The Article III Ninth Circuit Court, that appeals from this case will be heard at, have ruled that a "return" must be executed under penalty of perjury. Even Respondent has argued

this is true in past cases. All the authoritative resources that dictate this are too numerous to list in this section but are detailed within this briefing.

Form 13496, purporting to be a certification, and "return," relies upon 6651(g)(2) to authorize that the "returns" made and entered into evidence are to be treated as "returns" made by the "taxpayer." Setting aside, for the moment, the false and misleading rendering by Respondent of 26 USC/IRC Section 6651(g)(2) on the face of the "returns" we look at 26 USC/IRC Section 6651 and find that the enforcement regulations are codified at 27 CFR Parts 24, 25 & 70 which all have to do with wine, beer and procedural and administrative rules of the Alcohol and Tobacco Tax and Trade Bureau.

26 USC/IRC Section 6020(b) only dictates that the secretary "make" a "return." Nothing else within the section of the law commands any other action. 26 USC/IRC Section 6020(b) entirely relies upon 27 CFR Parts 53 & 70 for all enforcement guidance and "authority." Code of Federal Regulations (CFR) are only are enforceable upon those who are engaged within the regulated activity or privilege addressed within each separate title of the regulation code. Petitioner is and has not been engaged in any activity or privilege regulated by 27 CFR.

ARGUMENT

1. "INCOME" IS NOT DEFINED AND IS UNDEFINABLE WITHIN 26 USC/IRC.

The Sixteenth Amendment to the United States Constitution has no Enforcement/Enabling Clause and therefore cannot be the Constitutional authority for the enforcement of ANY law. This is an indication as to why the supreme court has stated in different ways at different times that the Sixteenth Amendment, "...by the previous ruling it was settled that the provisions of the 16th Amendment conferred no new power of taxation,..." [Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." [United States Constitution Sixteenth Amendment.]

"It was not the purpose or effect of that amendment to bring any new subject within the taxing power." [*Bowers v. Kerbaugh-Empire Co., 271 U.S. 170 (1926)]*

Numerous United States Supreme Court rulings have ruled that the Sixteenth Amendment created no new taxing powers, no new subjects and it's purpose was only for a direct tax upon "income" without apportionment among the States of the Union. The Amendment lacks an enabling clause, which is the section of a constitution or statute that provides government officials with the power to put the constitution or statute into force and effect. Therefore, no law can rely on the Sixteenth Amendment for it's enactment or authority. It is self evident that the United States possessed its necessary taxing powers prior to the purported ratification of the Sixteenth Amendment.

"The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;"[United States Constitution Article I, Section 8]

"...Why were the subsequent words, *duties, imposts* and *excises,* added in the clause? Two reasons may be suggested; the first, that it was done to avoid all possibility of doubt in the construction of the clause, since, in common parlance, the word *taxes* is sometimes applied in contradistinction to duties, imposts, and excises, and, in

the delegation of so vital a power, it was desirable to avoid all possible misconception of this sort; and, accordingly, we find, in the very first draft of the constitution, these explanatory words are added. Another reason was, that the constitution prescribed different rules of laying taxes in different cases, and, therefore, it was indispensable to make a discrimination between the classes, to which each rule was meant to apply." [Joseph Story, Commentaries on the Constitution 2:§§ 947]

If the Sixteenth Amendment was necessary to allow for a direct tax on "income" without apportionment, without regard to the source derived from, and that taxing scheme had been unconstitutional before its purported ratification, and no new powers of taxation, and no new subjects of taxation were created, as the Supreme Court has made settled law, and the meaning of "income" is what it was in the Corporation Excise Tax Act of 1909(36 Stat. 112) then the "income" tax of today must be a duty, impost or excise tax as those were the only taxes that required apportionment.

"It is clear on the face of this text that it does not purport to confer power to levy income taxes in a generic sense -- an authority already possessed and never questioned -- or to limit and distinguish between one kind of income taxes and another, but that the whole

purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed, in the light of the history which we have given and of the decision in the Pollock case, and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the Amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock case was decided." [Brushaber v. Union Pacific R. Co., 240 U.S. 1 (1916)]

The Sixteenth Amendment acts upon the Supreme Court so that the Supreme Court can not rule on a similar topic in the future in the same way such as it ruled in the Pollock case. In short and in essence, The Sixteenth Amendment acts strictly and solely upon the Supreme Court.

26 CFR Sec. 1.1-1 states, "Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual." This is a regulation dependent on 26 USC/IRC 1 for its lawful authority.

It is indisputable that the Code of Federal Regulations at 26 CFR declare 26 USC Sec. 1 to be "the law" that "imposes an income tax on the income of every individual who is a citizen or resident of the United States"

However, the law, 26 USC Sec. 1 actually states, "There is hereby imposed on the taxable income of..." 26 USC Sec. 1 does NOT impose a tax on ALL "income" "...of every individual who is a citizen or resident of the United States." 26 USC Sec. 1 only imposes a tax on "taxable income."

"Taxable income" stated in 26 USC Sec. 1 is defined at 26 USC Sec. 63(a) as, "Except as provided in subsection (b), for purposes of this subtitle, the term "taxable income" means gross income minus the deductions allowed by this chapter (other than the standard deduction).

"Gross income", is a term defined in 26 USC Sec. 61(a) as, "Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:"[emphasis added]

"...Incomes, from whatever source derived,..." from the United States Constitution Sixteenth Amendment appear to be nearly identical to the wording found in 26 USC Sec. 61(a), "...all income from whatever source derived,..."

"Taxable income" is "Gross income" minus deductions and "Gross income" is "income" from whatever source derived. This is circular deception attempting to simulate a legislatively defined term that cannot be lawfully legislatively defined as it is a relevant constitutional term.

"Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone it derives its power to legislate, and within whose limitations alone that power can be lawfully exercised." [*EISNER v. MACOMBER, 252 U.S. 189 (1920)*]

Since "income" is lawfully undefinable from within any legislative action as it is a constitutional term and can only be legislatively defined by an amendment to the United States constitution, the imposition in 26 USC Sec. 1 is a purported tax imposed on something that cannot be lawfully defined within the statute/code/law whose nature is unknown within the code and not defined within the United

States constitution and therefore renders the statute/code circular rhetoric, vague, ambiguous, arbitrary, capricious and a nullity, void from it's inception.

"If doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer." [Hassett v. Welch, 303 U.S. 303 (1938)]

2. "INCOME" IS DEFINED BY THE UNITED STATES SUPREME COURT

The United States Supreme Court has in fact defined "income," several times. It is understood by Petitioner that the US Tax Court is subject to the decisions of the United States Supreme Court/ Supreme Court of the United States.

"The act employs the term "income" in its natural and obvious sense, as importing something distinct from principal or capital, and conveying the idea of gain or increase arising from corporate activities." "Certainly the term 'income' has no broader meaning in the Revenue Act of 1913 than in that of 1909…" [*Doyle v. Mitchell Brothers, Co., 247 U.S. 179 (1918)]*

Petitioner is not nor has been engaged in any corporate activity.

"...income is essentially a gain or profit, in itself, of exchangeable value, proceeding from capital, severed from it, and derived or received by the taxpayer for his separate use, benefit, and disposal." [*EISNER v. MACOMBER, 252 U.S. 189 (1920)]*

"Income, within the meaning of the Sixteenth Amendment, the Income Tax Act of 1913, 1916, 1917, and the Corporation Tax Act of 1909, is a gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital assets." "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." [*Merchants Loan & Trust Co. v. Smietanka, 255 U.S. 509 (1921)]*

Any thing derived from another thing is not the original thing it is derived from, no more than gasoline being derived from crude oil is crude oil. It is self evident and settled law that "reasonable compensation for labor or services rendered is not profit." [*Oliver v Halsted, 86 SE Rep. 2nd 85e9 (1955)]*

"The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, 'from whatever source derived' without apportionment among the several states, and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes." "Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909 (36 Stat. 112) in the 16th Amendment, and in the various revenue acts subsequently passed." [*Bowers v. Kerbaugh-Empire Co., 271 U.S. 170 (1926)*]

The Corporate Tax Act of 1909 (36 Stat. 11, 112) imposed an excise tax on corporations for the privilege of doing business in corporate form. However, the excise tax was measured by corporate income. "It was not the purpose or effect of that amendment to bring any new subject within the taxing power." [Bowers v. Kerbaugh-Empire Co., 271 U.S. 170 (1926)]

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, but merely removes all occasion, which otherwise might exist, for an apportionment among the states of taxes [247 U.S.

165,173] laid on income, whether it be derived from one source or another. [Brushaber v. Union Pacific R. R. Co., 240 U.S. 1, 17-19, 36 Sup.Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; Stanton v Baltic Mining Co., 240 U.S. 103, 112-113, 36 Sup. Ct. 278]

The purpose or effect of *the Sixteenth Amendment did not* bring any new subject within the taxing power *but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on "income."*

All income tax acts under Subtitle A of the Internal Revenue Code are based on the above, and are classified by the Supreme Court in *Stanton v. Baltic Mining Co.* as indirect taxes, which means they can only be excise taxes on privileges and/or regulated/licensed activity and may only fall on "income" from corporate activity, as the several United States Supreme Court rulings state.

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.' [Flint v. Stone Tracy, 220 U.S. 107 (1911)]

"... [the 16th Amendment] conferred no new power of taxation... [and]... prohibited the ... power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged..." [*Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]*

Either 26 USC is vague and ambiguous, a nullity and void from it's inception as the law/code/statute cannot lawfully define the nature and/or the substance of the purported subject of the tax, "income."

Or, "income" is what the United States Supreme Court says it is, The act employs the term "income" in its natural and obvious sense, as importing something distinct from principal or capital, and conveying the idea of gain or increase arising from corporate activities. Certainly the term "income" has no broader meaning in the Revenue Act of 1913 than in that of 1909…, ..."income" is essentially a gain or profit,..., Whatever difficulty there may be about a precise and scientific definition of 16th Amendment, and in the various revenue acts subsequently passed.

Either way, Petitioner has not and does not conduct himself in a corporate character is not and has not engaged in any activity regulated under 27 CFR Parts 24, 25, 53, 70 or any other part of 27 CFR. Petitioner holds no business license.

It has been well said that "the property which every man has is his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him. As it hinders the one from working at what he thinks proper, so it hinders the others from employing whom they think proper." [Smith, Wealth Nat. bk. 1, c. 10. Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 (1884)]

"The principle is fundamental and vital. Included in the right of personal liberty and the right of private property-partaking of the nature of each- is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other

forms of property. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long-established constitutional sense." [Coppage v. State of Kansas, 236 U.S. 1 (1915)]

While the above case is not a tax case the principles are fundamental and vital, a man has a right to contract his labor or services for money without arbitrary interference.

"Income may be defined as a gain derived from capital, from labor, or from both combined, provided it be understood to include profit gained through sale or conversion of capital assets." [Eisner v. Macomber, 252 U. S. 189, 207, 40 Sup. Ct. 189, 193 (64 L. Ed. 521), 9 A. L. R. 1570.]

Include: from the Latin *includere*: "to shut in" from *in-*:

While the US code states that "include" is not to be considered exclusionary, as it is by the rules of the English language and proper common usage, the above definition is applied to Eisner v. Macomber, where "include" is not defined and is not part of the US

Code and presumed to be written in English.

The point is, according to the United States Supreme Court in Eisner v. Macomber, among others, “Income” used within 26 USC/IRC MUST include “profit.”

Gain: Profits; winnings; increment of value. [Gray v. Darlington, 15 Wall. 65, 21L. Ed. 45; Thorn v. De Breteuil, SO App. Div. 405, 83 N. Y. Supp. 840 (black's Law)]

PROFIT. The advance in the price of goods sold beyond the cost of purchase. The gain made by the sale of produce or manufactures, after deducting the value of the labor, materials, rents, and all expenses, together with the interest of the capital employed. [Webster. Lapham v. Tax Com'r, 244 Mass. 40, 138 N.E. 708, 710; McCready v. Bullis, 59 Cal.App. 286, 210 P. 638, 640. Gain realized from business or investment over and above expenditures. Citizens Nat. Bank v. Corl, 225 N.C. 96, 33 S.E.2d 613, 616. Fairchild v. Gray, 242 N.Y.S. 192, 196, 136 Misc. 704.]

Petitioner could find no definition for “profit” within 26 USC/IRC. Therefore, until Respondent can provide a more authoritative definition for “profit” the above definition of “profit” must stand in authority.

A gained profit is not the same as an at par / equal value exchange / nonrecognition transaction . A mans labor is his property. When a man exchanges his property for something of equal value there is no gained profit. And the above authoritative definition also notes that profit only occurs after deducting the value of the labor, materials, rents, and all expenses.

Life, Liberty and the pursuit of happiness are all fundamental rights of the People protected by the United States Constitution and all the servants of the People who take an Oath to support and defend said constitution.

“A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution.” [Murdock v. Pennsylvania, 319 U.S. 105 (1943)]

When the act took effect, plaintiff's timber lands, with whatever value they then possessed, were a part of its capital assets, and a subsequent change of form by conversion into money did not change the essence. [Doyle v. Mitchell Bros. Co., 247 U.S. 179 (1918)]

As with timber, a mans labor with whatever value it then possessed prior to being converted to money, is the same value expressed by the amount of money it was converted into. The subsequent change of form by conversion into money does not change the essence. In Fact and law the exchange of labor for money equaling the value of the labor is a “nonrecognition transaction.”

The term “nonrecognition transaction” means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A. [26 USC Sec.7701(45)]

It is settled law that a mans labor is his property.[1883: Butchers' Union Co. v. Crescent City Co., 111 U.S. 746., supra]

The labor of a man is not a commodity or article of commerce. [15 USC Sec. 17]

If a man's labor has been determined by fair market value (what someone is willing to pay) to be $10. per hour for labor performed, and a man works two hours and receives $20. that two hours of labor is expended, gone, that man has now traded that labor and his time, two hours he can never get back and two hours closer to death, for the amount, $20, that was determined to be what his labor was worth, where is the “profit?” Where is the “gain?” Where is the “corporate activities?” Where is the “income?”

3. PETITIONER DENIED DISCOVERY

On 01/11/18 Petitioner filed a motion (EXH-A)for leave to conduct discovery that was denied as moot. Petitioner then continued to request documents from Respondent and got nothing. on 08/02/2018 again filed a for leave to conduct discovery motion that was also denied with an explanation within the order (EXH-B) stating that “Discovery requests and responses are handled between the parties, without Court involvement” and goes on to state “Petitioner's motion for leave to conduct discovery is thus unnecessary and inappropriate.”

Petitioner had sent “informal” discovery requests to Respondent on 08/04/2017 which had been disregarded for five months by respondent.

Judge James S Halpern was provided the facts that Respondent had ignored Petitioners discovery request, "between the parties, without Court involvement," for five months and denied Petitioners motion anyway knowing that Petitioner had in good faith, to the best of his ability (pro se), followed his order, requested documents without court involvement and got nothing requested.

Judge James S Halpern is fully aware Petitioner is presenting his own case without counsel and as an experienced Judge he should also be fully aware that Pro se pleadings are not to be held to the same high standards of perfection as practicing lawyers. [See Haines v. Kerner 92 Sct 594, also See Power 914 F2d 1459 (11th Cir1990), also See Hulsey v. Ownes 63 F3d 354 (5th Cir 1995). also See In Re: HALL v. BELLMON 935 F.2d 1106 (10th Cir. 1991). also see Puckett v. Cox (456 F2d 233 (1972 Sixth Circuit).

"The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome, and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." [Conley v. Gibson, 355 U.S. 41 at 48 (1957)]

The Court of Appeals departure from the liberal pleading standards set forth by Rule 8(a)(2) is even more pronounced in this particular case because petitioner has been proceeding, from the litigation's outset, without counsel. A document filed pro se is "to be liberally construed," Estelle [v. Gamble], 429 U.S. [97] at 106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers," ibid. [Erickson v. Pardus, 127 S. Ct. 2197 (2007)]

It is possible that the Petitioners motion was not filed in the proper form or under the proper heading, however Petitioner's request was crystal clear, the fact Respondent was NOT providing requested documents, that only Respondent possessed, and has a decade long history of refusing to answer any of Petitioners questions or provide any of the necessary documents he requested, was also crystal clear. Petitioner needs certain documents, particularly the Individual Master File (IMF) complete (not a summary) and the corresponding decoder document and change logs, that only Respondent has control of, in order to evidence Petitioner's claims of inaccurate and fraudulent records being entered into Petitioner's IMF at the IRS. Petitioner requested discovery and was ignored by Respondent and denied by Judge James S Halpern almost as though they were working in collusion to deny Petitioner due process and therefore justice. This

is particularly disturbing given the fact that James S Halpern worked on the legal staff for the Respondent for three years.

While it is true that "exculpatory evidence" applies to criminal cases, it is also true that in Fox v. Elk Run Coal Co, Inc. an administrative judge ruled in a case under the Black Lung Benefits Act that Elk Run had found that Elk Run's nondisclosure of the unfavorable pathology reports at the 2000 hearing constituted a fraud on the court. This ruling was overturned by the forth circuit court of appeals stating that "fraud on the court" is "limited to situations involving judicial corruption." (which is, on its face, ridiculous as fraud "upon" the court must be a "fraud" conducted "upon" the court, that can be accomplished from inside or outside the judiciary and is certainly not the same as judicial corruption) Nevertheless, the forth circuit went on to explain further, "Fox had the right to cross-examine Dr. Koh regarding his qualifications and conclusions . . . He had the right to cross-examine Elk Run's other experts to test their understanding of and reliance on Dr. Koh's report. He had the right to question the apparent lack of additional pathology reports. He had the right to present a contradictory medical opinion from a pathologist of his own choosing. That he did none of those things is not so much an indictment of the adversary system as it is a statement that he did not fully avail himself of

it.” [Fox v. Elk Run Coal Co., Inc., No. 12-2387 (4th Cir. 2014)]

Petitioner has not been permitted to “cross-examine,” Respondents “understanding of and reliance on...” the IMF as Petitioner was told by this court the “trial” was only to discuss evidence and its entry into evidence and not law. Furthermore, Petitioner could not “present a contradictory...” IMF document as Respondent is the creator of and only custodian of the Individual Master File (IMF) complete.

Therefore, the fourth circuits ruling, based on its stated reasoning, is extinguished by the particular facts of this case. In addition, The Ninth Circuit noted that “one species of fraud upon the court occurs when an ‘officer of the court’ perpetrates fraud affecting the ability of the court or jury to impartially judge a case.” [Pumphrey v. Thompson Tool Co., 62 F.3d 1128, 1130 (9th Cir. 1995)]

Without being provided the “black and white” evidence, only available from Respondent, demonstrating Petitioner's claim of inaccurate and fraudulent information being entered into Petitioner's IMF this court's ability to impartially judge this case, this claim particularly, is in fact negatively affected which in turn negatively affects Petitioner's ability for due process and justice and puts Petitioner at an unjust disadvantage.

Petitioner claims that Respondent has entered fraudulent information into Petitioner's IMF. This claim is made based on the fact that the corresponding code of federal regulations for 26 USC sec. 6020, the section that authorizes a substitute for return, is found at 27 CFR Part 53 & 70. The "scope" of Part 70 Sec. 70.1 General. "(a) The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Alcohol and Tobacco Tax and Trade Bureau for:" and at Sec. 70.2 Forms prescribed. "a) The appropriate TTB officer is authorized to prescribe all forms required by this part" A TTB is An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau(TTB)not the IRS. 27 CFR Part 53 Sec. 53.1 Introduction. The regulations in this part are designated "Manufacturers Excise Taxes - Firearms and Ammunition." The regulations relate to the tax on the sale of firearms and ammunition imposed by section 4181 of the Internal Revenue Code of 1986, and to certain related administrative provisions of chapter 32, subchapter F, of the Code.

As is crystal clear, 26 USC/IRC Sec. 6020 corresponding enforcement regulations found at 27 CFR Parts 53 & 70 apply exclusively to Alcohol and Tobacco Tax and Trade Bureau and Manufacturers Excise Taxes - Firearms and Ammunition.

As is stated in IRS PIA ID Number: 2140 Date of Approval: February 28, 2017. The IMF application is a system consisting of a series of batch runs, data records and files. The IMF system receives individual tax submissions in electronic format and processes them through a pre-posting phase, posts the transactions, analyzes the transactions and produces output in the form of Refund Data, Notice Data, Reports, and information feeds to other entities.

Petitioner claims that IRS computers can not produce output consistent to issue a 6020(b) "substitute for return" utilizing the 26 USC 6020 enforcement regulations found at 27 CFR Parts 53 & 70 in Petitioner's case without first entering inaccurate and fraudulent information into Petitioner's IMF falsely indicating Petitioner's involvement in 27 CRF Part 53 & 70 taxable activities and "fooling" the computer into issuing a deficiency notice/6020(b) "substitute for return" to someone not actually engaged in the regulated and taxable activities set forth in 27 CFR Part 53 & 70. Petitioner is not and has never been involved with any alcohol, tobacco and firearms taxable activities.

4. 26 USC/IRC SECTION 6020(B) MISAPPLIED TO PETITIONER

The purported "returns" in this case are supposed "returns" generated under the authority of 26 USC/IRC Section 6020(b). The problem with this is that all the implementing regulations dictating the legal enforcement of 26 USC/IRC Section 6020(b) are found in 27 CFR Part 53 & 70.

The introduction of Part 53 clearly states, "The regulations in this part (part 53, subchapter C, chapter I, title 27, Code of Federal Regulations) are designated "Manufacturers Excise Taxes - Firearms and Ammunition." The regulations relate to the tax on the sale of firearms and ammunition..."

The scope of Part 70 is clearly states, "The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Alcohol and Tobacco Tax and Trade Bureau

26 USC/IRC Section 6020(b) allows that, "If any person fails to make any return required by any internal revenue law...the Secretary shall make such return...Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes."

26 USC/IRC Section 6020(b) actually only commands one action and that action is that "the Secretary shall make such return." It makes a statement, "any return so made and subscribed by the Secretary shall

be prima facie good and sufficient for all legal purposes," but uses prima facie, at first glace on its face, that converts that statement to a presumption that is rebutted with fact, law and reason.

Respondent must rely on implementing regulations to carry out what has been authorized by law. For 26 USC/IRC Section 6020(b)

Further, 26 USC/IRC Section 6651(g)(2) is the code Respondent relies on to claim that the purported "returns" entered into evidence, "such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)." The enforcement regulations for 26 USC/IRC Section 6651 are found at 27 CFR Parts 24, 25 & 70 those parts are titled beer(24), wine(25) and we have already mentioned the scope of Part 70 as to "set forth the procedural and administrative rules of the Alcohol and Tobacco Tax and Trade Bureau for:"

Petitioner contends the only way he could be issued a deficiency notice to start the 26 USC/IRC 6020(b) "return" process is to have fraudulent data entered into the Individual Master File (IMF).

Respondent has refused all of Petitioners requests for this document and the decoder document and the change logs. Judge James S Halpern denied Petitioner's motion for leave to conduct discovery.

Respondent is misapplying statute and regulation upon Petitioner. The fact is tax compliance is voluntary for most Americans, as most do not fall under the purview of the requirements of the code. Most Americans are not engaged in the privileged activity of making "income."

Unless activities that fall under the purview of 27 CFR Part 53 and/or 70 are "honestly" identified, disclosed and attributed to Petitioner 26 USC/IRC Section 6020(b) and its implementing regulations are misapplied to Petitioner.

The *Commissioner must establish "some evidentiary foundation" connecting the taxpayer to the income-producing activity. [Weimerskirch v. Commissioner, 596 F.2d 358, 361-362 (9th Cir. 1979), rev'g 67 T.C. 672 (1977)]*

5. "RETURNS" ENTERED INTO EVIDENCE BY RESPONDENT MISREPRESENT 26USC/IRC 6651(G)(2) AND PRIMA FACIE FRAUDULENT DOCUMENTS

Petitioner has entered into evidence form 13496(rev 02-2009), with attachments, purporting to be a "valid return," which is not subscribed under penalty of perjury, but is merely signed by revenue agent Michael Sumner [ID# 1001721850], dated 12/01/2016.

On the face of Form 13496 the opening sentence under Certification states that "The officer of the IRS identified below, authorized by

Delegation Order 182, certifies the attached pages constitute a valid return under section 6020(b)."

On the face of Form 13496 is the codicil stating,"Pursuant to section 6651(g)(2), this certification, with attachments, shall be treated as the return filed by the taxpayer for purposes of determining the amount of the additions to tax under paragraphs (2) and (3) of section 6651(a)." [emphasis added]

Section 6651(g)(2) actually states, "such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)." [emphasis added] Form 13496 (rev 02-2009) subscribed, not under penalty of perjury, by revenue agent Michael Sumner [ID# 1001721850], dated 12/01/2016 was knowingly deposited with the US Postal Service or any private or commercial interstate carrier with the intent to be delivered by mail or such carrier according to the direction thereon.

18 U.S. Code Sec. 1341 states in part, "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations,... for the purpose of executing such scheme or artifice or attempting so to do, places in any post office

or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, ...shall be fined under this title or imprisoned not more than 20 years, or both." [emphasis added]

One of the four prongs necessary for a "return" to be valid as set forth by the Ninth Circuit court in Hatton is that "it must represent an honest and reasonable attempt to satisfy the requirements of the tax law." [In re Hatton, 220 F .3d 1057, 1059 (9th Cir. 2000)]

Misrepresenting the United States Code / Internal Revenue Code on the face of paper purporting to be a "return" and entered into a United States Article I court as evidence may be a misguided attempt to "satisfy the requirements of the tax law" but it can in no way be deemed "honest" or "reasonable."

This is a clear attempt to mislead Petitioner in one more act of bad faith.

Petitioner can fathom no purpose for this misrepresentation except to attempt to deceive Petitioner into not realizing "this certification, with attachments" is actually a purported "return" and must be subscribed under penalty of perjury and it must be reasonable and honest.

Purported "returns" entered into evidence by Respondent fail two of four of the "prongs" that the courts use to determine a purported "returns" validity. Therefore the purported "returns" are not valid and are in fact and law a nullity.

6. "RETURNS" ENTERED INTO EVIDENCE FAIL THE FOUR PRONG TEST

26 USC Sec. 6020(b)(1) states, "If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

26 USC Sec. 6020(b)(2)Status of returns "Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes."

On the face of Form 13496 the opening sentence under Certification states that "The officer of the IRS identified below, authorized by Delegation Order 182, certifies the attached pages constitute a valid return under section 6020(b)."

26 USC Sec. 6020(b) clearly purports to create legal authority to the point that a "return" created by Respondent and "subscribed" by Respondent under 6020(b), the claim is that it "shall be prima facie good and sufficient for all legal purposes.

Respondent claims, within its answer to petition on page six, paragraph six, that it will "satisfy its burden of production by introducing into evidence the Substitute for Returns prepared by respondent pursuant to I.R.C. § 6020(b) for the years 2005, 2006, 2007, 2008, and 2009. These returns are treated as returns filed by petitioners for purposes of imposing the addition to tax under I.R.C. § 6651(a)(2). I.R.C. § 6651(g); see Cabirac v. Commissioner, 120 T.C. 163 (2003)." [emphasis added]

26 USC Sec. 6065 states in whole, “Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.”

One may argue that because 26 USC Sec.6020(b)(2) states, “Any return so made and subscribed by the Secretary shall be...” it constitutes an exemption to the requirement of a “under penalty of perjury” jurat.

However, one must take into account that 26 USC Sec.6020(a) states, “the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.” We presume “such person” is a “taxpayer.”

Respondent has filed within its answer to petition on page six, paragraph six a document stating “These returns are treated as returns filed by petitioners for purposes of imposing the addition to tax under I.R.C. § 6651(a)(2)” with an authoritative cite from the US Tax Court.

26 USC Sec. 6065 allows for "Except as otherwise provided by the Secretary." One would presume any exemptions would be listed within the enforcement regulations at 26 CFR Sec. 1.6065-1. In fact 26 CFR Sec. 1.6065-1 does allow for an exception to the "under penalty of perjury" requirement at 26 CFR Sec. 1.6065-1(b)(2) "The verification required by subparagraph (1)of this paragraph is not required on returns, declarations, statements, or other documents which are prepared:(i)For an employee either by his employer or by an employee designated for such purpose by the employer, or (ii)For an employer as a usual incident of the employment of one regularly or continuously employed by such employer."

Petitioner is not and has never been an employee of Respondent and Petitioner is not and has never been an employer of Respondent.

As no clear exemption for the "under penalty of perjury" requirement can be found made by the "Secretary, " 26 USC Sec. 6065 clearly states that ANY document purporting to be a tax return or other related documents SHALL contain or be verified by a written declaration that it is made under the penalties of perjury. Respondent has not yet produced any "otherwise provided by the Secretary" exemption to the "under penalty of perjury" requirement and has been so far silent on the matter.

The sixth circuit court stated in its decision, "A return that fails to meet the requirements of section 6065 also fails the fourth prong of a well established four prong test used to determine a return's validity, known as the substantial compliance standard," the four necessary prongs a "return" MUST meet are stated in Beard. "First, there must be sufficient data to calculate tax liability; second, the document must purport to be a return; third, there must be an honest and reasonable attempt to satisfy the requirements of the tax law; and fourth, the taxpayer must execute the return under penalties of perjury. [Beard v. Commissioner, 82 T.C. 766, aff'd per curiam, 793 F.2d 139 (6th Cir. 1986)]

The seventh circuit court stated in its decision, "...the Commissioner [Respondent] asserted that the forms 1040 taxpayer and his wife submitted were not "returns" because the verification requirement of section 6050 of the code was not satisfied, as the portion of the jurat stating that the declaration was being made "[u]nder penalties of perjury" was crossed out on both forms." [Morgan (william J.) v. Commissioner of Internal Revenue, 869 F.2d 1495 (7th Cir. 1989)] [added]

As is clear, Respondent has argued, and won, that something purporting to be a "return" that is not prescribed under penalties of perjury is not a "return" at all.

It would be the height of hypocrisy and the depths of tyranny for a US government actor to say yes, the rule applies to you... but not us, you must sign under penalty of perjury... but not us, you must tell the truth... but not us and if we say you did not tell the truth you must go to prison for lying... but we can lie with impunity. That is not reasonable, honest, impartial, due process or justice.

26 USC Sec. 6103(b) Definitions For purposes of this section—
(1) Return- "The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed."

The "returns" filed into evidence by Respondent were allegedly made "on behalf of" and "with respect to" Petitioner.

The ninth circuit court ruled that,"(1) it must purport to be a return; (2) it must be executed under penalty of perjury; (3) it must contain sufficient data to allow calculation of tax; and (4) it must represent an honest and reasonable attempt to satisfy the requirements of the tax law." [In re Hatton, 220 F.3d 1070 (9th Cir. 2000)]

If "the Secretary shall make such return" as authorized in 26 USC Sec. 6020(b) and that "return" "shall be prima facie good and sufficient for all legal purposes" then any "return" or thing being purported as a return, according to the ninth circuit court, is required to meet ALL four prongs set forth in Hatton. Respondents entered as evidence, Form 13496 (rev 02-2009) nor any of the attachments originating at IRS, purporting to be a "return," are "executed under penalty of perjury."

Therefore, accepting Form 13496, with attachments, as a valid "return" is in direct contradiction to 26 USC 6065 and particularly the enforcement regulations thereunder found at 26 CFR 1.6065-1. which not only do not provide an exception for Respondent made "returns", it specifically describes Respondent as being also required to prescribe "returns" under penalty of perjury, 26 CFR 1.6065-1(a) states in part, If a return, declaration, statement, or

other document made under the provisions of subtitle A or F [6020(b) is in subtitle F] of the Code, or the regulation thereunder, with respect to any tax imposed by subtitle A of the Code is required by the regulations contained in this chapter... to contain or be verified by a written declaration that it is made under the penalties of perjury." 26 CFR 1.6065-1 specifically includes subtitle F and specifically includes no exception.

At 26 CFR 1.6065-1(b)(1) it states in part, "if a return, declaration, statement, or other document is prepared for a taxpayer by another person...as an incident to the performance of other services for which such person receives compensation, and the return...requires that it shall contain or be verified by a written declaration that it is prepared under the penalties of perjury, the preparer must so verify the return."

It is a fact Respondent (another person) has prepared what they purport to be a "return" for Petitioner as an incident to the performance of other services (tax collection) for which Respondent receives compensation and, as is settled law, a "return" is a nullity if not prescribed under penalties of perjury.

The sixth circuit court stated in its decision, "A return that fails to meet the requirements of section 6065 also fails the fourth prong of a well established four prong test used to determine a return's

validity, known as the substantial compliance standard." [Beard v. Commissioner, 82 T.C. 766, aff'd per curiam, 793 F.2d 139 (6th Cir. 1986).]

The seventh circuit court stated in its decision, "...the Commissioner [Respondent] asserted that the forms 1040 taxpayer and his wife submitted were not "returns" because the verification requirement of section 6050 of the code was not satisfied, as the portion of the jurat stating that the declaration was being made "[u]nder penalties of perjury" was crossed out on both forms." [Morgan (william J.) v. Commissioner of Internal Revenue, 869 F.2d 1495 (7th Cir. 1989)] [added]

If any "return" or thing being purported as a return is not subscribed under penalty of perjury that "return," if allowed to be submitted as a "return" would defeat 26 U.S. Code Sec. 7206 (1), 26 CFR 1.6065-1(a) and 26 CFR 1.6065-1(b)(2) creating an uneven playing field, a prejudicial process where Petitioner is held to a higher standard than Respondent and would also offer Petitioner no protection or redress against false or fraudulent evidence and would also deny Petitioner Due Process, fair procedures, provided in the fifth amendment to the United States constitution.

26 USC Sec. 6702 provides that to be subject to the frivolous return penalty an individual needs to file what purports to be a tax return,

but not that the documents be a valid return. [Holker v. United States, 737 F.2d 751, 752 (8th Cir. 1984); Davis v. United States, 742 F.2d 171, 173 (5th Cir. 1984).]

In Office of Chief Counsel Internal Revenue Service Memorandum, Number: 200451042, Release Date: 12/17/04, the Chief Counsel Advises within their conclusions, "The taxpayer's return fails the requirement that it must be signed under penalties of perjury. Therefore, the return is not valid and can be treated as a nullity." And, "The return is subject to the frivolous return penalty under section 6702."

If Respondent is filing "returns" for Petitioner in substitute of a Petitioner filed "return," and these "substitute returns" "are treated as returns filed by petitioners..." then the same requirements of being held under the penalties of perjury, to the same extent as Petitioner must be true or Respondent could lie with impunity which is a denial of due process, as in being inherently unfair to excuse requirements for one party and not the other performing the same act, a denial of equal protection under the law.

CONCLUSION

It follows that the position of the Pettioner should be sustained and the determination of the Commissioner be vacated.

Francis Steffan
March Tweny-Seve The Year Of Our Lord Two Thousand and Nineteen