

## Is the Income Tax Legal? On with the Debate

One need not disagree with tax attorney Warren Salomon's practical advice, that fighting the income tax in court is a waste of time (Taxes, Jan.), to be very concerned about the reasons he gives—that the tax is for the most part properly legal. One could conclude, for example, that however unconstitutional the tax, every court in the land is too corrupt to overturn it. His answers to William Mullendore's important and well-expressed questions (Letters, March) trouble me. Mullendore asked him to show where in the law (1) anyone was required to file a tax return and (2) who is liable for the tax. Salomon's answer to the first cited Internal Revenue Code Sections 6011 and 6012. But those sections require a person to file tax returns if he (a) has a specified level of income and (b) is "a person made liable for any tax imposed." In order to know whom 6011 requires to file, we therefore have to know whom the law makes "liable for" the tax. That was Mullendore's second question, which Salomon failed to address; accordingly, he has answered neither question.

A. J. Davies  
Ridgefield, CT

As a new subscriber to REASON and a believer in the Constitution as the supreme law of the land—as opposed to the regulations of the IRS—I find Taxes columnist Warren Salomon's replies to William Mullendore's challenges totally unacceptable and misleading.

Salomon says *income* is defined in Section 61 of the Internal Revenue Code. Section 61 of the IRC I possess defines *gross income* and states in part: "Gross income means all income from whatever source derived." Well, as any high-

school student knows, you can't define a word by using the word in the definition. Section 61 also lists 15 separate components of gross income. However, the words *wages* and *salaries* are strangely omitted. Does Salomon still maintain that *income* is defined in Section 61? If so, then those of us who receive either a wage or a salary have *no* income, because neither wages nor salaries are listed as components of "income" in Section 61.

Salomon says Sections 6011 and 6012 require the filing of returns by individuals. In my Code, Section 6011 says in part: "When required by regulations...any person made liable for any tax...shall make a return." So once again we are confronted with linguistic gymnastics. Although the word *required* is used, the Code fails to establish just exactly *who* is required to file or who is made liable for any tax. Is the American worker supposed to guess on a matter of such personal importance—a matter in which he may give up 35 percent or more of his or her productivity?

Douglas Johnson  
Dayton, OH

Attorney Warren Salomon should take an English grammar refresher course first, and then take some more law courses. *Income* is *not* defined in IRC Section 61 as Salomon says. This section states: "Gross income means all income..." The key word *income* remains undefined! Moreover, the tax code doesn't say who is required to file a return. The code constantly makes use of the phrase "any person *liable* for the tax," who must do various things. You'd almost think there would be a section defining *liable*. Mullendore's second question—can Salomon "specify the exact code section that conveys liability to individuals for a personal income tax"—was not answered! Mullendore's letter is correct in every respect. Your readers would do well to reread it.

William Udy  
Tigard, OR

Contrary to Warren Salomon's reply to William Mullendore's letter, *income* is not defined in Section 61 nor anywhere else in the IRC. The title of Section 61 alleges that a definition is to be set forth,

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but what follows is not a definition of anything. One of the premier rules of defining a word or phrase is that neither the word nor any word from the phrase being defined may be used in the body of the definition, for the result is circuitous nonsense. In Section 61, the foregoing rule is breached in at least seven places. (The first occurs where the phrase "gross income means all income" appears.) I lay an additional challenge at Salomon's door: explain the meaning of the phrase "made liable" as contained in Section 6011.

*Virgil M. Martin  
Cocoa Beach, FL*

**Mr. Salomon replies:** My critics' complaints are difficult to answer, but not because their questions are difficult—they aren't. I've already answered them, but not to my critics' satisfaction. The issues raised are primarily of a nonlegal nature, although their arguments seem to be framed in terms of the Internal Revenue Code. What we really have here is a problem at the epistemological level—and the problem isn't mine. My critics and I are approaching the income tax from totally different starting points. Here's mine: We have a Constitution. It was amended (alas) to permit an income tax. Congress has acted. The courts have gone along with it. And the result is that we do indeed have an income tax—we really do.

There is natural law, there is positive law (whatever the courts say), and there is the "truly positive" law (that which comes out of the barrel of a gun). The income tax violates the first, is congruent with the second, and rests ultimately on the third. I'm not an admirer of the system we have. My job is to understand it and to endure until it's changed. It won't go away merely because we point out theoretical flaws in draftsmanship.

The definition of *gross income* in Section 61 is not to my critics' satisfaction, nor to mine, and obviously not to Aristotle's, but so what? It has sufficed for its purpose for most of this century. It is merely the first step (and a sweeping one) in arriving at "taxable income." It's part of the *process* the statute sets forth for ultimately determining the tax. It's not a dictionary definition and it was never intended to be one. It tells you where to begin in figuring out what you owe. My critics' viewpoint, although derived from very commendable principles, just doesn't stand up in court.

No one needs to (nor should) take my

opinions on faith. There are literally hundreds of reported cases which support what I'm saying and *none* going the other way (that is, *no case* says that income isn't taxable and that you don't have to file a tax return). If my critics still want to put their own interpretation on language which already has a judicially accepted meaning, that's their business. They can't, however, impose their subjective wishes on the court system. Therefore, I strongly advise my critics not to put their views into practice. If they do, they will eventually bump up against reality. And that can be a painful experience. Until the law is changed (may that day come soon!), we're stuck with the income tax and with the requirement of filing tax returns. I don't like the situation—in fact, I hate it; but it exists. I wish my critics all the luck in the world. I hope they won't need it.

## ***It Depends on What You Mean by "Legal"***

Here we go again. Another debate about whether the income tax is legal. William Mullendore challenges Warren Salomon to prove that the federal income tax is legal. Both gentlemen are right, but neither will admit it to the other. The heart of the controversy is the definition of the word *legal*. We currently operate under two distinct sets of "laws"—the philosophical (that which is written) and the pragmatic (that which is practiced). While we pay great homage to the former, it often bears little resemblance to the latter.

Mullendore is right. The Internal Revenue Code as written does not define *income*. It also only requires those who are required to file a tax return to file (figure that one out). And, of course, requiring one to file violates the Fifth Amendment, as written.

But in practice, Salomon is right. Income is whatever the IRS says it is and you are required to file a return, because if you don't, the IRS will steal your house, your car, and your wife, beat your children, and rape your dog. Sure, some small number of "tax patriots" have managed to trick the court system into working. But for the rest of us, jail is a hell of a way to win a war.

Is the income tax legal? The question is largely irrelevant. Since we are no longer a country governed by the rule of law, any action that an individual undertakes

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is more a matter of acceptable personal risk.

Alan Groupe  
Reading, MA

## Libertarianism Amok

I'm for freedom. But who wants to be free to reverberate around the inside of his car during the milliseconds following its collision? Probably the same drivers who constantly risk their lives to gain precious fractions of seconds by tailgating and weaving through traffic. Should libertarians encourage these irresponsible souls by opposing seat-belt laws? Well, Ken Livingston's tongue-in-cheek attempt ("All Revved Up and No Place to Go," March) runs consistently afoul of an elementary fact: driving is not a right but a privilege which is stringently licensed and controlled by the state. Vehicle codes are therefore immune to criticisms which are based on arguments involving individual liberty. Perhaps Ken should have also told his pupil, "Kid, it's a real jungle out there! If you grow up endorsing prior restraint for psychopathic drivers, I won't hold it against you."

Tim Jewett  
Gilroy, CA

## Country's Gone to Pot

Cool rockin' daddy Bill Kauffman ("Getting Back to the Country," March) must be myopic and tone-deaf.

I'm living in rural America (Hitchcock, OK: population 106) and have watched it change from tilling the soil to farming the government. Just a few scant years ago there was a farmhouse on every 160 acres, chickens in every yard, and cows to be milked each day. The biggest things were the high-school basketball games and the Saturday night trek to town where at the square dance one knew who his partners were and could hear them.

Now the farmhouses are few and far between. Most tillers of the soil live in town with everything financed by government loans. They drive their pickups out to "the spread" every two or three days to see the cattle during the off-season and stop each morning at the local donut shop to commiserate with each other about the low support price for the one annual crop they produce for

the government.

The high school is now miles away where sundry gather to drink, smoke pot, sniff glue, and cheer. Saturday night the crowd does the burlesque strut under strobe lights at some honky-tonk where it is impossible to know who is wiggling with whom or to hear them. The older farmers spend hours at some senior-citizens' center fretting about the skimpiness of their Social Security checks.

There isn't any rural America anymore. The only cowboys are the professionals at some rodeo with college degrees like the golfers of today. Truman's postwar price supports, Eisenhower's soil bank, and Reagan's PIR program changed its face. It will take more than a rock band singing to tone-deaf patrons about the past to repair the tremendous damage done to "rugged individualism" in rural America.

Leslie Fleming  
Hitchcock, OK

## The Reflowering Of Athens

Bill Kauffman's article about the new country movement managed to leave at least one stone unturned. A band from Athens, Georgia, has succeeded in pleasing both fans and critics.

R.E.M. plays a driving, hypnotic blend of folk, rhythm, and blues. This band sings about genuine Americans and a countryside pulse that still beats strong. Besides remaining true to their musical roots, the members of R.E.M. refuse to compromise their style just to make hit singles. They realize that music is an artistic expression which is only as good as the people who make it.

Even though you may not see them on a beer commercial or a future Farm Aid benefit, you *can* see R.E.M. in concert. This is a group you don't want to miss, which proves that you "can't get there from here."

Try anyway.

Brent J. Bielema  
Fulton, IL

## Shakespeare Si, Brokaw No!

I take issue with Jeff Rignenbach's assertion ("People Si, Literati No!" Feb.) that

"there is nothing intrinsically 'better' about reading the latest news for oneself instead of listening while some other person reads it aloud." Clearly, no form of communication is intrinsically better than any other. The goodness of any tool must be determined by its relationship to the ends sought by the tool-user.

People obtain information for many different reasons. Some do so in order to formulate political opinions or engage in discussion. Others may obtain information solely for entertainment purposes. Listening to someone read the news aloud is ideal for the latter sort; it requires little effort and little understanding. But for the person who has more serious uses for information, reading is vastly superior.

Printed information is much more detailed than spoken information and one can absorb more of it in less time. A transcript of the nightly news is about equal to one full page of newsprint and takes one-half hour to relate, including commercials. Second, the variety of printed information is greater. One can read REASON or Mother Jones or anything in-between. Compare this to the spectrum from CNN to CBS. Finally, printed matter is easier to work with. One can reread passages which are unclear, readily compare data from different sources (and good data are rarely given on television), pass around or photocopy articles for other interested parties, and save useful pieces for future reference.

Truly, no one may force another to choose print over electronic media as an information source, but if one wishes to be well informed and not be forced to rely on others with more information to make sound political judgments, logic suggests that print is the better choice.

James Robbins  
Cincinnati, OH

## Rignenbach's Taste Tested

Why should we believe Jeff Rignenbach's radical egalitarian views on philosophy, art, literature, etc., if what he claims is no more true than William Bennett's "taste" for the Western tradition? It is a red herring to try to connect this issue to the evil of the NEH using other people's wealth to support something that may well be worthy of support. (Does Mr. Rignenbach think whether it is evil is just a matter of taste

## letters

too? Is this Western view a mere preference, as is Mr. Bennett's choice of philosophy?)

Those who try to bury all standards manage, instead, to bury themselves in nonsense. I for one know that the old Greek, Democritus of Abdera, was right when he said, "The same thing is good and true for all men, but the pleasant differs from one and another."

*Tibor R. Machan  
Senior Editor, REASON  
Lugano, Switzerland*

## Forms, Forms, Everywhere a Form

Randall Hylkema's cartoon about merging to afford a lobbyist (Feb.) makes a point that deserves saying out loud. In my industry—trucking—and in almost every industry with which I do business, regulation is the major economy of scale. It takes the same amount of time to fill out a form describing one truck as a thousand—but if you have a thousand, you can hire someone to specialize in that agency's forms, to know exactly what they want and don't want to make the paper flow smoothly. Perhaps he can even get to know their personnel on a friendly basis. Almost every business falls under dozens of regulatory agencies at various levels, many under hundreds or thousands, each with their own requirements, forms, timetables, and eccentricities.

The ability to deal effectively with these agencies is, in my opinion, the primary advantage a large firm has over a small one.

*Tom Porter  
Reseda, CA*

## But Does the Supreme Court Hate Him?

I have just read your Spotlight by John Dentinger ("The Man They Hate at City Hall") in the March issue.

Please note that while the Supreme Court did refuse the claim of the City of Los Angeles to an *appeal* as a matter of right, the court did decide to hear the case on a discretionary basis (*certiorari*). A decision is expected during this term.

*Harold R. Farrow  
Oakland, CA*

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# Real Conservatives Don't Start Wars

Bill Kauffman

**B**ack in the days when hippies roamed the earth, kids used to enjoy taunting their parents by speculating on the reception Jesus Christ would receive if he were to walk through the door of the local church. The joke was that the congregation would give him the heave-ho, long hair, sandals, and all, then return to their Christian worship.

Readers of a respected journal of foreign affairs were recently treated to a similar irony, albeit of a more temporal nature, courtesy of the provocative young foreign-policy analyst Christopher Layne. In the winter issue of the quarterly *Foreign Policy*, Layne strove valiantly to resurrect the noble but neglected conservative foreign policy of Ohio's Mr. Republican, Senator Robert Taft. Today's conservatives were none too pleased with this Second Coming, either.

Throughout the 1940s and early '50s, Taft led the opposition to the Cold War policies of the liberal Democrats. Taft and his conservative allies feared that the extensive foreign commitments America was making would strain our budget, imperil our liberties, and earn us the enmity of people around the world.

For their efforts these postwar conservatives were reviled and red-baited by eminent publications from *The New Republic* to the *New York Times*. Most all of these gallant old boys are dead now. Their collective epitaph, in light of J. Edgar Hoover, the Iranian hostages, and a \$200-billion budget deficit, should be a giant "WE TOLD YOU SO."

Layne tags Taft and his comrades "real conservatives" and contrasts them with the Reagan administration's neo-conservatives. Real conservatives, explains Layne, believe that the primary purpose of our national defense should be to defend this nation and its vital interests. Ever mindful of the need for prudence in government expenditure, real conservatives desire to shift the cost

of defending Europe and Japan from the hapless American taxpayer to the Europeans and the Japanese. And real conservatives, understanding that "vital American interests are not engaged in Afghanistan, Angola, Cambodia, and similar Third World hotspots," do not wish to entangle the United States in those peripheral conflicts.

Opposed to the real conservatives are the neoconservatives who run American foreign policy in the age of Reagan. Neoconservatives believe that the purpose of US foreign policy is to wage a global war on communism. They are therefore willing to spend money hand over fist propping up anticommunist governments and insurgents and subsidizing the defenses of our NATO allies. America, in their view, is an imperial power with an almost limitless set of foreign obligations. The neoconservatives regard old-fashioned conservatism, with its caution and concern for preserving traditional American values, as a quaint but disturbing antique.

Nevertheless, Layne's essay hit a raw nerve among today's conservatives. Two of the right wing's leading lights—columnist cum TV pontificator George Will and *New Republic* chin-puller Charles Krauthammer—moved quickly to snuff out this flame of heterodoxy.

Reaganite Will dismisses Layne as being "stuck in the 1940s." Interference in Third World affairs is necessary, Will argues, to roll back the Soviet Empire. If anything, US foreign policy has been "too passive." It's not unfair to note that during America's futile crusade in Vietnam, Will served his country in the musty corners of graduate-school libraries.

Hawkish Democrat Krauthammer scarcely knows what to make of Layne's "extreme" isolationism. The United States is a superpower, he sagely observes. If all we care about is national security, then we require only "a

minimal deterrent arsenal, a small navy, a border patrol, and hardly any foreign policy at all." This prospect strikes Krauthammer as ridiculous and undeserving of further comment. After all, what self-respecting superpower would mind its own business when there's a global crusade to be waged?

In fact, however, a foreign policy based on Layne's real conservatism offers us a peaceful and prosperous future. For starters, it'd take a huge chunk out of the enormous Reagan deficit. Approximately half of our \$300-billion-plus defense budget goes toward defending Europe and Japan, which are certainly capable of building up their defenses to the point necessary to deter a Russian attack. A real conservative approach to defense would keep American dollars where they belong—in the hands of the folks who earn them.

It would also put to rest the nagging fear that American blood will be spilled in far-off lands in which we have no proper interest. If the Russians wish to don the imperialist mantle, let them: Imperialism is foreign to the American character; it corrupts us and enables the central government to build up its power at the expense of the liberties of the people. And it leads, ultimately, to the grisly sight of young American boys, stacked in military planes, coming home to parents and girlfriends in body bags.

Opposing US interventionism from the right is a lonely business these days. Most of one's allies are likely to be pious, posturing leftists of the sort who throw wine and cheese parties for visiting Sandinistas. Not very pleasant company. But conservatives who are reluctant to challenge the wasteful and dangerous policies the Reagan administration is pursuing abroad are advised to remember the defiant words of the great Confederate statesman Alexander Stephens: "Times change and men often change with them, but principles never!"