

From:

Robert Edward Orth
7207 Lafayette Rd
Indianapolis, IN 46278

June 30, 2018

To:

Federal Bureau of Investigation
SPECIAL AGENT ABBOTT
8825 Nelson B Klein Pkwy
Indianapolis, IN 46250

Re: This is a sworn criminal complaint under 18 USC § 4 to report felony violations of laws of the United States.

Special Agent Abbott,

I am writing to complain of felony violations of the laws of the United States that are in progress. I am being threatened through the mail by public servants for the sole reason that I am exercising rights to redress. I have received a written threat of loss of thousands of dollars if I don't abandon my attempt to access the law. *Any and all emphasis* employed herein may be construed to have been added. All exhibits attached hereto are incorporated by this reference as if fully restated herein. The term "as briefed" shall signify my appellate opening brief at Exhibit A hereto.

The federal government is long on commands for everybody to obey the law, and the IRS parades through the lives of each and all Americans while wielding the Tax Code (26 USC). However, when somebody knows exactly which provisions to focus on (below) the federal government imposes enormous monetary sanctions, as briefed.

As you read this criminal complaint observe expression of a right to access the law, a right to be taxed by clear language, the duty of the court in cases involving statutory construction, and how the law must govern to determine a tax liability. As you read, explore the reasonableness of having to pay thousands of dollars and get absolutely no discussion of the laws upon which you've relied when all you've attempted is to get a ruling on the law. I've complained herein that this is a conspiracy in violation of 18 USC § 241, and is an act of mail fraud in violation of 18 USC § 1341. When sanctions are imposed it will be an act of extortion in violation of 18 USC § 872 that will include use of the mail.

26 USC §§ 1, 31, 61, 83(a), 212, 879(a)(2), 1001, 1011, 1012, 1401, 1402(b), 3101, 3121(e), 3306(j), 6201, 6671(b), 7343, 7621, 7651(4)(A), and 7655;

26 CFR 1.1-1, 1.83-3(e), (f), (g), 1.83-4(b)(2), 1.1001-1(a), 1.1011-1(a), 1.1012-1(a), 1.1401-1(a), 1.1402(a)-2(a), 1.1402(b)-1(d), 31.0-2(a)(1), 31.3121(e)-1(b), 301.6201-1(a), and 602.101;

42 USC § 411(b)(2);

Social Security Act of 1935 § 211, P.L. 74-271, 49 Stat. 620 (August 14, 1935), now codified as 42 USC ch. 7;

1939 Internal Revenue Code §§ 111, 112, 113, 3640, and 3811.

I filed an appeal (**Ex.A**) on the 7th Circuit (*Orth v. Comm’r of IRS*, #17-3348) seeking review of ONLY relevant tax provisions that either govern my tax liabilities, appear to constrain official authority, or which are unconstitutional in my circumstances. Despite this prudent foundation for my claims, that “court” placed in the mail a contrivance directed at deterring me from seeking review of ONLY the above provisions. To punish a person for doing what the law plainly permits is a due process violation of the most basic sort. (See *Bordenkircher v. Hayes*, 434 US 357, 363 (1978); *US v. Goodwin*, 457 US 368, 372 (1982)).

Exhibit A: My 7th Cir. appeal from US Tax Court without its exhibits.

Exhibit B: Final opinion and notice of intent to impose sanctions.

Exhibit C: Both the 4th Cir. and Supreme Court memorandum decisions which illustrate for this court how to set about duly disposing of cases involving statutory construction.

Agency power is “not the power to make law. Rather, it is ‘the power to adopt regulations to carry into effect the will of Congress as expressed by the statute.’” *Ernst & Ernst v. Hochfelder*, 425 US 185, 213-14 (1976) (quoting *Manhattan Gen. Equip. Co. v. Commission*, 297 US 129, 134 (1936)). It is “the judiciary’s duty “to say what the law is.”” *Marbury v. Madison*, 1 Cranch. 137, 177 (1803) (Marshal, C.J.).”¹ And with the understanding that:

“As in all statutory construction cases, we begin with the language of the statute. The first step “is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.” *Robinson v. Shell Oil*

¹ See *U.S. v. Lopez*, 514 U.S. 549, 115 S.Ct. 1624, 1633 (1995).

Co., 519 U.S. 337, 340 (1997) (citing *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 240 (1989)). *The inquiry ceases “if the statutory language is unambiguous and ‘the statutory scheme is coherent and consistent.’”* 519 U.S., at 340.”

See *Barnhart, Comm’r of Social Security v. Sigmon Coal Co., Inc., et al.*, 534 US 438, 450, 122 S.Ct. 941, 151 L.Ed.2d 908 (2002).

“We shall begin our analysis with an exegesis of the general provisions of section 83. We then shall examine those provisions in conjunction with the facts of the instant case so that we may decide whether respondent adequately notified petitioner of the issue of the applicability of section 83.”

See *Pagel, Inc. v. Commissioner*, 91 TC 200, 204-05 (Tax Court #34122-85, 1988). An “exegesis” is an interpretation.

That’s what everybody else gets; an interpretation, the application of law to fact, and a ruling based on the proper operation of the law. That litigant got review of 26 USC § 83, but US Tax Court and the 7th Circuit have outlawed this provision that explains how to tax the entire workforce, as briefed. I’m being threatened through the mail for seeking this in relation to the provisions herein.

Everything in the controlling provisions is an “outlandish theory,” but being mistaken can only occur through a misinterpretation of the law, which requires that the *correct interpretation* be disclosed as the reason for rejection of the claim or argument. A statutory argument is either right or it is wrong, but it is never a mere *theory*. What’s truly “outlandish” is any belief that the government can prevent every American from accessing controlling provisions while it steals their property by threats and by force.

“The *parties provide vastly differing interpretations of the statutory language*, and both contend that the language clearly supports their position.”

“The Commissioner’s argument has considerable force, if one focuses solely on the language of sections 1281 and 1283 and divorces them from the broader statutory context. But we cannot do that. The Supreme Court has noted that, “*the true meaning of a single section of a statute in a setting as complex as that of the revenue acts, however precise its language, cannot be ascertained if it be considered apart from related sections, or if the mind be isolated from the history of the income tax legislation of which it is an integral part.*” (Cite omitted) According to the Court, the construing court’s duty is “*to find that interpretation which can most fairly be said to be imbedded in the statute, in the sense of being most harmonious with its scheme and with the general purposes that Congress manifested.*” (Cite omitted) The circumstances of the enactment of particular legislation may be particular relevant to this inquiry. (Cite

omitted) *Finally, when there is reasonable doubt about the meaning of a revenue statute, the doubt is resolved in favor of those taxed.* (Cite omitted)

As in all cases of statutory interpretation, *we must start with the text of the statute.* But we cannot simply focus on sections 1281 through 1283 because they do not exist in a vacuum. *Rather, we must consider the context provided by the more general statutory scheme of which [they] are a part.*"²

And -

"The Right to Be Informed.- Taxpayers have the right to know what they need to do to comply with the tax laws. *They are entitled to clear explanations of the laws* and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes."

See: [<https://www.irs.gov/Taxpayer-Bill-of-Rights>]. See also US Supreme Court - Helvering v. Tex-Penn Oil Co., 300 US 481, 498 (1937) ("The taxpayers were entitled to know the basis of law and fact on which the Commissioner sought to sustain the deficiencies."). And with the knowledge that the IRS and DOJ have to follow the law:

"I agree with the Court that the Internal Revenue Code provision and the corresponding Treasury Regulations that control consolidated filings are best interpreted as requiring a single-entity approach in calculating product liability loss. I write separately, however, because I respectfully disagree with the dissent's suggestion that, when a provision of the Code and the corresponding regulations are ambiguous, this Court should defer to the Government's interpretation. See post this page (opinion of Stevens, J.). *At a bare minimum, in cases such as this one, in which the complex statutory and regulatory scheme lends itself to any number of interpretations, we should be inclined to rely on the traditional canon that construes revenue-raising laws against their drafter.* See *Leavell v. Blades*, 237 Mo. 695, 700-701, 141 S.W. 893, 894 (1911) ("*When the tax gatherer puts his finger on the citizen, he must also put his finger on the law permitting it*"); *United States v. Merriam*, 263 U.S. 179, 188 (1923) ("*If the words are doubtful, the doubt must be resolved against the Government and in favor of the taxpayer*"); *Bowers v. New York & Albany Lighterage Co.*, 273 U.S. 346, 350 (1927) ("*The provision is part of a taxing statute; and such laws are to be interpreted liberally in favor of the taxpayers*"). Accord, *American Net & Twine Co. v. Worthington*, 141 U.S. 468, 474 (1891); *Benziger v. United States*, 192 U.S. 38, 55 (1904)."

See *United Dominion Industries, Inc. v. United States*, 532 US 822, 838-39 (2001).

26 CFR 601.106(f) Conference and practice requirements. Practice and conference procedure before Appeals is governed by Treasury Department Circular 230

² See *Security Bank of Minnesota v. Commissioner of IRS*, 994 F.2d 432, 435-36 (CA8 1993).

as amended (31 CFR Part 10), and the requirements of Subpart E of this part. In addition to such rules but not in modification of them, the following rules are also applicable to practice before Appeals:

(1) Rule I. ***An exaction by the U.S. Government, which is not based upon law, statutory or otherwise, is a taking of property without due process of law, in violation of the Fifth Amendment to the U.S. Constitution.*** Accordingly, an Appeals representative in his or her conclusions of fact or application of the law, ***shall hew to the law and the recognized standards of legal construction.*** It shall be his or her duty to determine the correct amount of the tax, with strict impartiality as between the taxpayer and the Government, and without favoritism or discrimination as between taxpayers.

“With the IRS’ broad power must come a concomitant responsibility to exercise it within the confines of the law.”³

“More importantly, the statute does not require that the taxpayer put a legal classification on his protest. The Service, however, with its expertise, is obliged to know its own governing statutes and to apply them realistically.”⁴

“***The mission of the Service*** is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and ***to maintain the highest degree of public confidence in the integrity and efficiency of the Service. This includes communicating the requirements of the law to the public,*** determining the extent of compliance and causes of non-compliance, ***and doing all things needful to a proper enforcement of the law.***” *Federal Register*, Vol.39, #62, Fri.March 29, 1974, 1110 Organization and functions of the Internal Revenue Service, Sec.1111.1 Mission, since revised to sound less congenial.

“It has long been established that a taxpayer has the right to arrange his affairs so as to minimize the taxes he pays. See *Gregory v. Helvering*, 293 U.S. 465, 469, 55 S.Ct. 266, 267, 79 L.Ed. 596 (1935) . . . The firm’s arrangements were not illegal and so were not prohibited[.]”⁵

26 USC § 7214 Offenses by officers and employees of the United States. -

(a) Unlawful acts of revenue officers or agents. ***Any officer or employee of the United States acting in connection with any revenue law of the United States - (1) who is guilty of any extortion or willful oppression under color of law; or***

(2) who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or

(3) who with intent to defeat the application of any provision of this title fails to perform any of the duties of his office or employment; or

³ See *Bothke v. Fluor Engineers and Constructors, Inc.*, 713 F.2d 1405, 1413, at [11] (CA9 1983).

⁴ *Id.*

⁵ See *Boccardo v. C.I.R.*, 56 F.3d 1016, 1018, 1020 (CA9 1995).

(4) who conspires or colludes with any other person to defraud the United States;
or

(5) who knowingly makes opportunity for any person to defraud the United States;
or

(6) who does or omits to do any act with intent to enable any other person to defraud the United States; or

(7) who makes or signs any fraudulent entry in any book, or makes or signs any fraudulent certificate, return, or statement; or

(8) ***who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to the Secretary;***
or

(9) who demands, or accepts, or attempts to collect, directly or indirectly as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do;

shall be dismissed from office or discharged from employment and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both. The court may in its discretion award out of the fine so imposed an amount, not in excess of one-half thereof, for the use of the informer, if any, who shall be ascertained by the judgment of the court. The court also shall render judgment against the said officer or employee for the amount of damages sustained in favor of the party injured, to be collected by execution.

A tax must be imposed by clear and unequivocal language. Where the construction of a tax law is doubtful, the doubt is to be resolved in favor of whom upon which the tax is sought to be laid. (See *Spreckles Sugar Refining v. McClain*, 192 US 397, 416 (1904); *Gould v. Gould*, 245 US 151, 153 (1917); *Smietanka v. First Trust & Savings Bank*, 257 US 602, 606 (1922); *Lucas v. Alexander*, 279 US 573, 577 (1929); *Crooks v. Harrelson*, 282 US 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 US 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 US 498, 508 (1932); *Gregory v. Helvering*, 293 US 465, 469 (1935); *Hassett v. Welch*, 303 US 303, 314 (1938); *U.S. v. Batchelder*, 442 US 114, 123 (1978)).

18 USC § 241 Conspiracy against rights. ***If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution*** or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or ***on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured*** -

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 USC § 872 Extortion by officers or employees of the United States. ***Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be fined under this title or imprisoned not more than three years, or both; but if the amount so extorted or demanded does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.***

18 USC § 1341 Frauds and swindles.- ***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, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, 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, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.***

I've done nothing illegal, I've only exercised my rights, I've clearly relied upon ONLY governing provisions of law, I've presented nothing "frivolous" to the 7th Circuit, and I'm obviously entitled to review upon the language of the provisions I've cited. Despite having all of these rights, and despite having gone to such great lengths to responsibly and competently explain my claims, I stand threatened with the loss of countless US dollars (property rights).

The court can cite no case that has held in the past that statutes and regulations are outlandish theories, no case that contains an interpretation of the provisions in my appeal, and no case which examined 26 USC § 1 and its implementing regulation 26 CFR 1.1-1 to determine if that regulation, and not § 1, identifies Americans as subject to § 1 income tax, which a mere regulation cannot do. My argument on this begins at pg.5 of 28, as briefed. THIS COURT, the

7th Circuit Court of Appeals, states precisely this in 2012 and now calls its own ruling “outlandish theories.”

“Vallone wrote a letter to the IRS in which he made a variety of baseless claims, including the assertions that he enjoyed certain rights unique to a “sovereign citizen” born in the United States; that he was neither a citizen nor resident of the United States as those terms are used in the Fourteenth Amendment or **26 CFR § 1.1-1(a)-(c), the IRS regulation identifying those persons who are subject** to income tax by the United States[.]”

See *US v. Vallone*, 110 A.F.T.R.2d (RIA) 6110 (CA7 2012).

We now understand that if you rely on what the 7th Circuit says (above) it will penalize you thousands of dollars for spouting outlandish theories. Nowhere in my briefing did I in any way “challenge the legality of the tax code”; the accused are liars. The Tax Code is legal, but it says what it says, it applies where Congress says it applies; I challenged the legality of enforcement of the Tax Code on the part of the IRS. Only criminals have to lie. Material misrepresentations, false statements, conveyed by public servants through the mail to unduly deprive me by distraint of rights to due process and to property; this is mail fraud and extortion in progress.

THEREFORE I, Robert E. Orth, must complain that DIANE P. WOOD, JOEL M. FLAUM, DIANE S. SYKES, are in violation of 18 USC § 241 when conspiring to deprive me of my rights to redress (access the law) and to property. If sanctions are ultimately imposed as threatened, consider this complaint to also allege a violation of 18 USC §§ 872 and 1341. (See **Ex.B**).

Reasonable suspicion that a felony has been committed translates into or equates to the right of a private individual to arrest the felon with any necessary force. (See *Shelburg v. City of Scottsdale*, #CV-09-1800-PHX-NVW, USDC Arizona (8/23/2010); *US v. Fullbright*, 105 F.3d 443 (CA9 1995) in MT; *US v. Grigg*, 498 F.3d 1070 (CA9 2007) in OR; *Tekle v. US*, 457 F.3d 1088 (CA9 2005) in CA; *Rhomberg v. Wilson*, 108 F.3d 339 (CA9 1996) in CA; *Collins v. Womancare*, 878 F.2d 1145 (CA9 1989); *Hopkins v. Bonvicino*, 573 F.3d 752 (CA9 2008); *Budnick v. Barnstable County Bar Advocates, Inc.*, #92-1933 (CA1 1993); *Aldrich v. Town of Milton*, Civil #2009-11282-JLT (USDC of Mass. July 9, 2012); *Holm v. Town of Derry*, Civil #11-cv-32-JD (USDC New Hampshire, Dec. 20, 2011); *US v. Gowen*, 40 F.2d 593, 596 (1930); *Carroll v. United States*, 267 US 132, 161, 45 S.Ct. 280, 69

L.Ed. 543, 39 A.L.R. 790; *US v. Lindenfield*, 142 F.2d 829, 831 (CA2 1944); *US v. Swarovski*, 557 F.2d 40, 45 (CA2 1977); *Carroll v. US*, 267 US 132, 45 S.Ct. 280, 69 L.Ed. 543, 39 A.L.R. 790; *Brady v. US*, 6th Cir., 300 F. 540, cert. den. 266 US 620, 45 S.Ct. 99, 69 L.Ed. 472 (1924); *Richardson v. US*, 217 F.2d 696, 698 (CA8 1954); *Hester v. Redwood County*, Civil #11-1690-ADM-JJK (USDC Minn. Aug. 6, 2012); *US v. Kriz*, 301 F.Supp. 1329 1331 (USDC Minnesota, Division III (July 25, 1969); *Foss v. US*, 266 F. 881, 882 (1920); *Ward v. US*, 316 F.2d 113, (1963); *Jack v. Rhay*, 366 F.2d 191 (CA9 1966); *Fernandez v. Klinger*, 346 F.2d 210, 211-12 (CA9 1965); *Elkanich v. US*, 327 F.2d 417 (CA9 1964), cert. den. 377 US 917; *US v. Coplton*, 185 F.2d 629, 634, 28 A.L.R.2d 1041 (CA2 1950), cert. den. 342 US 920; *Dorsey v. US*, 174 F.2d 899 (CA6 1949), cert. den. 388 US 950 and 340 US 878; *State v. McClung*, 66 Wash.2d 654, 404 P.2d 460 (1965); *Smock v. Peppermill Casinos, Inc.*, #3:11-cv-00094-RCJ-VPC USDC Nevada (May 14, 2012); *Huang v. McEwen*, Civil #09-0355-PA-JCG (USDC Central Dist. of Cal. April 26, 2012); *Stroh v. US*, Civil #11-cv-00344-LTB-BNB (USDC Colorado, Sept. 17, 2012); *US v. Lima*, 424 A.2d 113, 120 (1980)).

The right of citizen's arrest extends to any felony violation, state or federal, and is governed by state law. (See *Brady v. US*, 300 F. 540 (CA6 1924); *US v. Coplton*, 185 F.2d 629 (CA2 1950); *Richardson v. US*, 217 F.2d 696 (CA8 1954); *Ward v. US*, 316 F.2d 113 (CA9 1963); *Elkanich v. US*, 327 F.2d 417 (CA9 1964); *US v. Swarovski*, 557 F.2d 40 (CA2 1977); *Dorsey v. US*, 174 F.2d. 899 (CA5 1949)).

Indiana Code § 35-33-1-4 Any person.-

§ 4(a) **Any** person may arrest any other person if:

(1) ***the other person committed a felony in his presence;***

(2) ***a felony has been committed and he has probable cause to believe that the other person has committed that felony;*** or

(3) ***a misdemeanor involving a breach of peace*** is being committed in his presence and the arrest is necessary to prevent the continuance of the breach of peace.

(b) A person making an arrest under this section shall, as soon as practical, notify a law enforcement officer and deliver custody of the person arrested to a law enforcement officer.

(c) The law enforcement officer may process the arrested persons if the officer had arrested him. The officer who receives or processes a person arrested by another under this section is not liable for false arrest or false imprisonment. As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982, P.L.204, SEC.7.

Illinois Compiled Statutes - 725 ILCS 5/107-3 (from Ch. 38, par. 107-3)

§ 107-3. Arrest by private person. Any person may arrest another when he has reasonable grounds to believe that an offense other than an ordinance violation is being committed. (Source: Laws 1963, p. 2836).

From my view it appears that those I've named herein are felons who are subject to citizen's arrest by anyone and everyone in America. Based on my evidence, how is a suspicion of § 241 and § 1341 violations unreasonable? Every time I read the law, as briefed, it says the same thing to me, which I stated succinctly in my pleadings. Am I supposed to incur penalties each and every year the law says this to me just to access controlling provisions? What exactly insulates the accused from prosecution? I have to demand an investigation by qualified legal professionals and either a memorandum to the contrary that includes an exegesis of controlling provisions, as briefed, or that the accused be notified that their conduct likely violates the law as alleged herein.

Verification:

I, Robert Edward Orth, do hereby declare (28 USC § 1746) that the foregoing statements are true and correct, and that the exhibits attached hereto are authentic and have not been misrepresented in any way, to the best of my knowledge and belief. Executed under penalties of perjury this 30th day of June, 2018.

Robert Edward Orth, Affiant

The above affirmation was subscribed and duly sworn to before me this 30th day of June, 2018, by Robert Edward Orth.

I, _____, am a Notary under license from the State of Indiana whose commission expires on _____, and be it known by my hand and my Seal as follows:

Notary signature