



*remand 316 F.2d 254.*

g) Court and litigants must follow these rules in same manner as they must obey a statute. *Beasley v. U.S., D.C.S.C.1948, 81, F.Supp. 518*

h) These rules have the same effect as a statute and are as binding upon the court as upon counsel. *Barrezueta v. Sword S.S. Line, D.C.N.Y. 1939, 27 F.Supp. 935.*

I) The congressional authority given Supreme Court to adopt these rules was limited to matters of procedure, and it was expressly provided that substantive rights should neither be abridged, enlarged nor modified. *John R. Alley & Co. v. Federal Nat. Bank of Shawnee, Shawnee County, Okl., C.C.A. Okl. 1942, 124 F.2d 995.*

j) Spirit of these rules is that technical requirements are abolished and that judgments should be founded on facts and not on formalistic defects. *Builders Corp. of America v. U.S., C.A.Cal. 1958, 259 F.2d 766.*

k) "This Constitution, and the laws of the United States which shall be made in pursuance thereof;... shall be the supreme law of the land; and the judges in every state shall be bound thereby... The Senators and Representatives and members of the State legislature, and all executive and judicial officers of the United States and the several States, shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." *The Constitution of the united States of America, Article VI, Cl 2, 3.*

l) "The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution." *Reid v Covert 354 US 1, 1957.*

m) A judge is an officer of the court, as well as are all attorneys. A state judge is a state judicial officer, paid by the State to act impartially and lawfully. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. A judge is not the court. *People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).*

n) "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted." *Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985).*

o) "It is important that the litigant not only actually receive justice, but that he believes that he has received justice." *Taylor v. O'Grady, 888 F.2d 1189 (7th Cir. 1989). In Pfizer Inc. v. Lord, 456 F.2d 532 (8th Cir. 1972).*

p) The Supreme Court has ruled and has reaffirmed the principle that "justice must satisfy the

appearance of justice." *Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954).

q) "**The Court is free to act in a judicial capacity, free to disagree with the administrative enforcement actions if a substantial question is raised or the minimum standard is not met. The District Court reserves the right to prevent the 'arbitrary' exercise of administrative power, by nipping it in the bud.**" *United States v. Morton Salt Co.*, 338 U.S. 632, 654, (1950). (Emphasis added).

## PETITION ARGUMENT

Petitioner Responds with the following facts of law which are briefly addressed herein based on 5 State Court cases Petitioner previously brought against the Respondent, per *Colorado, Case No. 08-cv-02274-LTB-KLM, Nebraska, Case No. 8:08-CV-190, New Mexico, Case No. 1:08-mc-00018-BB, North Carolina, Case No. 3:08-mc-00067-FDW, and Virginia, Case No. 3:08-mc-00003-HEH*, as well as approximately 1000 pages of documents sent to Respondent since 2003 seeking a response to case law and IR Code questions and disputes. Each Federal case filing included 140+ pages of pleadings and exhibits which will be called upon, if necessary, along with the approximately 1000 pages of previous documents, in response to complete documentation to be filed electronically with the court.

Petitioner provides this brief discourse to provide initial evidence to preserving Judicial Economy for this court, for Petitioner, and for preliminary meetings suggested in documents received by Petitioner. Evidence to be presented to the Court will dwarf this material.

Petitioner also NOTICES this Honorable court that he retains and stands on his **Constitutional Rights under Due Process, for a Jury Trial of his peers if this is to proceed**, to hear the evidence to be presented by Petitioner that has been ignored and denied by Respondent for 9 years. Respondent stated in documents responding to requests for proof of claim that if Petitioner wanted an answer to his questions, that he would have to do it in the court. They completely ignored the 9 years of requests for clarification that their own IR Code demands be provided to Petitioner. (See EXHIBIT D).

**Claims that these arguments are "frivolous," or "already answered by the Courts," are untenable in that Petitioner is claiming that his evidence of Supreme Court case law and Congressional record quotes, among reams of other similar evidence to be entered, are even MORE valid than subsequent contradictory court claims which counter long standing precedent. Case quotes, and Congressional Testimony provided by Petitioner have never been overturned, and have been long standing case law and self-authenticating Evidence in Fact that have never been lawfully addressed.**

Since these, and all the other issues raised by Petitioner over the last 9 years have never been adjudicated, doing so would finally address all the legal challenges being raised across the

country by those investigating these issues. We are expected to know the law, and to follow it. After extensive research of all laws, case laws and original intent of Congress, Petitioner is, and has been, following the laws, and repeatedly asking for answers to presumptions, (See EXHIBIT H) mentioned above, made against Petitioner all his life.

## ARGUMENT

1. Petitioner challenges Standing of Respondent to be, in any manner, moving against Petitioner, or to be making “Deficiency” claims against Petitioner, as a private Citizen of the Republic of Colorado. Standing can be raised at any point in any action:

“Jurisdiction is essential to give validity to the determinations of administrative agencies and where jurisdictional requirements are not satisfied, the action of the agency is a nullity...” *City Street Improv. Co. v. Pearson* 181 C 640, 185 P. 962; *O'Neill v. Dept. of Professional & Vocational Standards*, 7 CA2d 393, 46 P2d 234.

"The law requires PROOF OF JURISDICTION to appear on the Record of the administrative agency and all administrative proceedings." *Hagans v. Lavine*, 415 U.S. 533. (Emphasis added).

"Therefore, it is necessary that the record present the fact establishing the jurisdiction of the tribunal." *Lowe v. Alexander* 15C 296; *People v. Board of Delegates of S.F. Fire Dept.* 14 C 479.

"If any tribunal (court) finds absence of **proof of jurisdiction** over person and subject matter, the case must be dismissed." *Louisville RR v. Motley*, 211 US 149, 29 5. Ct. 42. (Emphasis added).

If Subject Matter Jurisdiction is questioned in the Court, the IRS cannot rely solely upon the allegations in the alleged “Deficiency” and **must bring forward relevant, adequate proof that establishes Subject Matter Jurisdiction. The court may consider evidence outside the pleadings to resolve factual disputes concerning jurisdiction.** (Emphasis added) *Nelson Construction Co. v. U.S.*, No. 05-1205C, 2007 WL 3299161 at \*3 (Fed. Cl., Oct. 29, 2007) (citing *McNutt v. General Motors Acceptance Corp. of Indiana*, 298 U.S. 178 (1936)); see Also *Nichols v. Muskingum College*, 318 F.3d 674, (6th Cir. 2003).

"The burden shifts to the court to prove jurisdiction." *Rosemond v. Lambert*, 469 F2d 416.

"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." *Lantana v. Hopper*, 102 F2d 188; *Chicago v. New York*, 37 F Supp 150.

"It is well established that the court has an independent obligation to assure that standing exists, regardless of whether it is challenged by any of the parties." *Summers v. Earth Island Institute*, No. 07-463 (U. S., March 3, 2009) (citing *Bender v. Williamsport Area School Dist.*, 475 U. S.

534, 541 (1986)).

"There is no discretion to ignore that lack of jurisdiction." *Joyce v. US*, 474 F2d 215.

**Further evidence of the Respondent lacking Standing in this honorable court, or over Petitioner, or this issue:**

2. The IR Code is NOT positive law. (See EXHIBIT V & T) but is only prima facie evidence of law, but once challenge is made with evidence herein, legal authority and jurisdiction must be proven on the record, per above Judicial Notice.

3. The IRS is not a U.S. Government Agency. It is an Agency of the I.M.F.. The IRS "Denies that the Internal Revenue Service is an agency of the United States Government..." *Diversified Metal Products v. IRS, et al. CV-93-405E-EJE -USDC District of Idaho...* (See EXHIBIT E-2).

See also, Public Law 94-564, Senate Report 94-1148 pg. 5967, Reorganization Plan No. 26, Public Law 102-391.)

The I.M.F. is an Agency of the United Nations (Black's Law Dictionary, Sixth Edition, Pg. 816).

The U.S. Treasury is now the I.M.F. (Presidential Documents Volume 29-No.4 pg. 113, 22 U.S.C. 285-288).

Since the IRS denies being "an agency of the United States," it therefore remains that it has no jurisdiction over my personal affairs, and is acting in a private capacity unless perjury and falsification of documents is evident in the above quoted case. I have no contract with the non-governmental "IRS" agency, and there is no signature suggesting I have willingly, willfully and with full disclosure, entered into any agreement with this private agency.

The Internal Revenue Code, which I can prove from Respondent's own IR code, refers ONLY to those who have entered into an employment agreement with the U.S. government, (See EXHIBIT T) which Petitioner has not, therefore the IRS has NO Standing to be bringing any action against Petitioner any more than Microsoft would have Standing to force me into a contract with them.

4. Respondent is not a legally created agency and no such entity named "Internal Revenue Service," or "IRS" actually exists in law, as prima facie evidence provided by Congress reveals. (See EXHIBIT L) No agency with the name "Internal Revenue Service" or "IRS" was ever established by law according to Congress.

Petitioner challenges any legal Standing or jurisdiction by the "IRS" to be doing what they are doing without lawful authority by Congress in the State of Colorado.

Petitioner challenges this presumption and has found no laws creating this agency, therefore, they have no jurisdiction or power over Petitioner until the law is provided and proven of record.

Title 4, Section 72. Public offices; at seat of Government

“All offices attached to the seat of government shall be **exercised in the District of Columbia**, and not elsewhere, except as otherwise expressly provided by law.” (Emphasis added).

Petitioner cannot locate any other law authorizing the IRS to have Standing or jurisdiction in this case over Petitioner, or in Colorado. This automatically eliminates jurisdiction by this honorable court, and this issue should be dismissed with prejudice since the IRS has failed to respond to 9 years of documented requests for proof of claim. (Evidence available).

5. No evidence whatsoever has been forthcoming to even begin to claim that Petitioner is personally or legally a “**taxpayer**” which is a hearsay statement. Petitioner has repeatedly requested proof of statutory law or constitutional law proving he is a “taxpayer” and “liable” to said “Deficiency,” as labeled by the IRS.

"The revenue laws are a code or system in regulation of tax **assessment** and collection. They relate to taxpayers and **not to non-taxpayers**. The latter are without their scope. **No procedure is prescribed for non-taxpayers and no attempt is made to annul any of their rights and remedies in due course of law.** With them Congress does not assume to deal, and **they are neither of the subject nor of the object of the revenue laws. Persons who are not taxpayers are not within the system and can obtain no benefit by following the procedures prescribed for taxpayers...**" United States Court of Claims, Economy Plumbing and Heating v. United States, 470 Fwd 585, at 589 (1972). (Emphasis added).

I am a “non-taxpayer” until proven to be a “taxpayer” by law, statute, code or the constitution. Petitioner denies being a “taxpayer” as mislabeled by the IRS according to all existing evidence provided. Liability cannot be created by fiat or presumption, or “because we say so.” Liability cannot exist absent a law creating that liability or proof that Petitioner’s personal information can in any way create any liability anymore than a German or Frenchman’s personal information can make them “liable” to the IRS absent law that does so FIRST.

Petitioner’s personal documents, nor his finances, can create a personal legal liability in and of themselves. Ledger entries cannot create “liability.” Personal finances CANNOT create liability absent being “made liable” through the mechanism of law. Liability is ONLY a product of law, such as the liability clearly defined and stated regarding alcohol, tobacco and firearms. No such liability exists in the IR Code.

Law alone (in conjunction with the Constitution), must create the liability, and THEN personal documents or third party documents, or finances, could be lawfully used as evidence to support the degree of liability. Petitioner’s personal records, or Respondent’s hearsay testimony or belief, or even the claims of “that’s the way we’ve always done it” by Respondent, does not create such liability.

6. There is no IR Code support for the presumption Petitioner is liable to fill out the “bootleg”

1040 form. The IRS 1040 form for the past many years has NOT had a legal OMB number as required by law, thus making it a “bootleg” form as the courts have labeled such forms:

"The Senate Report analysis of Sec. 3512 states that 21 [i]nformation collection requests which do not display a current control number or, if not, indicate why not are to be considered 'bootleg' requests and may be ignored by the public..."

In addition, multiple other violations by Respondent have occurred... including violation of PRA Section 3506(c)(1)(B)(iii). (See EXHIBIT M).

7. In *Billings v. U.S.*, 232 U.S. 261, 34 S.Ct. 421 (1914), the Supreme Court clearly acknowledged the basic and long-standing rule of statutory construction:

“Tax statutes . . . should be strictly construed, and, if any ambiguity be found to exist, it must be resolved in favor of the citizen.” *Eidman v. Martinez*, 184 U.S. 578, 583; *United States v. Wigglesworth*, 2 Story, 369, 374; *Mutual Benefit Life Ins. Co. v. Herold*, 198 F. 199, 201, aff’d 201 F. 918; *Parkview Bldg. Assn. v. Herold*, 203 F. 876, 880; *Mutual Trust Co. v. Miller*, 177 N.Y. 51, 57.” (Id at p. 265, ).

Ambiguity in the IR Code is very evident based on the brief evidence provided, and which can be substantially supported in complete disclosure, therefore, the necessity for Petitioner’s personal financial information on presumed “tax liability or the collection of the tax liability” based on personal financial records is without merit and has no legal standing and is under the color of law and outside Respondent’s legal jurisdiction.

8. The IRS has failed to provide the legally required “Summary Record of Assessment” pursuant to 26 CFR 301.6203-1 regarding any tax liability status for years, 2003, 2004, 2005, 2006:

“The assessment shall be made by an assessment officer signing the summary record of assessment.”

“The date of the assessment is the date the summary record is signed by an assessment officer.”

No such document (Summary Record of Assessment) was received by Petitioner with any identifiable signature of “assessment officer,” and “Notice of Deficiency” letters received by Petitioner were also not signed by any identifiable agent, making any such alleged “assessment” or “Notice” void on its face.

9. Petitioner denies having “income,” as defined by the courts for a century. No such definition has been provided by the Respondent, despite years of requests for same. Petitioner can’t possibly be liable for something that isn’t defined or stated clearly in Statutes or the Constitution. Brief case law on this is provided:

"The general term "income" is not defined in the Internal Revenue Code." *US v Ballard*, 535 F2d

400, 404, (1976). (From <http://thetrixhasyou.org/affidavit-updated/attachment-a-u.html>).

“Wages, and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produce the gain **is without support, either in the language of the Act or in the decisions of the courts construing it.** Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Department, which either prescribed or permits that compensations for personal services not be taxed as an entirety and not be returned by the individual performing the services. It has to be noted that, by the language of the Act, **it is not salaries, wages or compensation for personal services that are to be included in gross income.** That which is to be included is gains, profits, and income **derived from** salaries, wages, or compensation for personal services.” The United States Supreme Court, *Lucas v. Earl*, 281 U.S. 111 (1930). (Emphasis added).

“...Reasonable compensation for labor or services rendered is not profit...” *Laureldale Cemetery Assc. v. Matthews*. 47 Atlantic 2d. 277 (1946).

“All are agreed that an income tax is a “direct tax” on gain or profits...” *Bank of America National T. & Sav. Ass'n. V United States*, 459 F.2d 513, 517 (Ct.Cl 1972).

“There is a clear distinction between 'profit' and 'wages' or 'compensation for labor.'  
**Compensation for labor cannot be regarded as profit within the meaning of the law...**The word profit is a different thing altogether from mere compensation for labor...The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who performed the services which produced the gain **is without support either in the language of the Act or in the decisions of the courts construing it** and is directly opposed to provisions of the Act and to Regulations of the Treasury Department...” *U.S. v. Balard*, 575 F. 2D 400 (1976); *Oliver v. Halstead*, 196 VA 992; 86 S.E. Rep. 2D 858-9: (Emphasis added).

**“Simply put, pay from a job is a 'wage,' and wages are not taxable. Congress has taxed INCOME, not compensation (wages and salaries).”** - *Conner v. U.S.* 303 F Supp. 1187 (1969). (Emphasis added).

“The statute and the statute alone determines what is income to be taxed. It taxes only income 'derived' from many different sources; **one does not 'derive income' by rendering services and charging for them.**” *Edwards v. Keith*, 231 F. 110 (2nd Cir. 1916). (Emphasis added).

“The meaning of “income” in this amendment is the gain derived from or through the sale or conversion of capital assets: from labor or from both combined; not a gain accruing to capital or growth or increment of value in the investment, **but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital** however employed and coming in or being “derived,” that is, received or drawn by the recipient for his separate use, benefit, and disposal.” *Taft v. Bowers*, *N.Y.* 1929, 49 *S.Ct.* 199, 278 *U.S.* 470, 73 *L.Ed.* 460. (Emphasis added).

**"The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."**

*Helvering v. Edison Bros. Stores, 133 F2d 575. (1943)*

"...income; as used in the statute should be given a meaning so as not to include everything that comes in. The true function of the words "gains" and "profits" is to limit the meaning of the word "income." *S. Pacific v. Lowe, 247 F. 330. (1918).* (Emphasis added).

"Under the Internal Revenue Act of 1954 **if there is no gain, there is no income.**" - *26 U.S.C.A. '54, Sec. 61(a).* (Emphasis added).

**"There must be gain before there is 'income' within the 16th Amendment."** U.S.C.A. Const. Am 16. (Emphasis added).

"The true function of the words 'gains' and 'profits' is to limit the meaning of the word 'income' and to show its use only in the sense of receipts which constituted an accretion to capital. **So the function of the word 'income' should be to limit the meaning of the words 'gains' and profits.**" *Southern Pacific v. Lowe. Federal Reporter Vol. 238 pg. 850.* (Emphasis added).

Conclusion on the term "income:" Income is NOT what I have. Income is a profit that comes FROM the use of wages to CREATE a "profit" above the capital or principle. "Income" is also a corporate profit above all expenses. In either case, taxation can ONLY be applied as either "direct" or "indirect" and presently, the "income" tax applied against Petitioner is applied in neither of these constitutional forms, making it an unconstitutional form of taxation, which even the 16<sup>th</sup> Amendment did NOT support. (See EXHIBIT C on the Evidence in Fact of the case law surrounding the 16<sup>th</sup> Amendment, as well as "Affidavit of William Benson," per *People v. Boxer*, California Supreme Court, which established that the Sixteenth Amendment was never lawfully ratified, and is unlawfully being interpreted and used against Petitioner.)

10. Petitioner challenges the type of taxation Respondent is attempting to use to tax him under the 16<sup>th</sup> Amendment. Excerpts from EXHIBIT C: (Emphasis added).

"The various propositions are so intermingled as to cause it to be difficult to classify them. We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that **the 16<sup>th</sup> Amendment provides for a hitherto unknown power of taxation;** (That of being able to tax people outside direct and indirect, as they are being taxed today. JTM) that is, a power to levy an income tax which, although direct, should not be subject to the regulations of apportionment applicable to all other direct taxes. And the far reaching effect of **this erroneous assumption** will be made clear by generalizing the many contentions advanced in argument to support it..."

"...if acceded to, **would cause one provision of the Constitution to destroy another;**...bringing the Amendment into irreconcilable conflict with the general requirement that **all direct taxes be**

**apportioned... This result would create radical and destructive changes in our constitutional system...**

“...the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source... on the contrary shows that **it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation.**” Brushaber v. Union Pacific R.R. Co., 240 U.S. 1 (1916).

In other words, taxation can ONLY be direct or indirect, and the 16<sup>th</sup> Amendment did NOT provide for another means to tax outside the two lawful forms of taxation. Respondent has refused to declare which form “income” taxes are being applied toward Petitioner. Presently, taxation by Respondent complies with neither Apportionment NOR Uniformity, and Petitioner challenges Respondent in providing proof of claim for lawful right to do so. If proof can be supplied that true, constitutional, 16<sup>th</sup> Amendment “income” has anything to do with Petitioner, then any taxation MUST be lawfully applied, (Apportioned per census, or uniformly across the country) and Petitioner sees NO lawfulness in potentially attempting taxation outside these constitutional parameters.

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Petitioner presents the above as a **VERY brief**, preliminary disclosure of laws, statutes, case law, etc., in regard to a few of many issues that will be brought into this case in defense of Petitioner’s position. As previously stated, Petitioner has extremely abundant documentation to prove, beyond any doubt, that he is NOT liable for the alleged tax “deficiency,” and is willing to defend his rights to the extreme length of law and counsel available to him, if necessary, even to the Supreme Court.

Petitioner would also NOTICE this Honorable Court that he is a disabled veteran, and has difficulty traveling 4-5 hours to the available cities for said meeting... i.e. Denver or Albuquerque). His back disability causes discomfort due to periods of immobility, meaning that a 4 hour trip to Albuquerque means a 6-7 hour trip to allow for frequent stops to relieve pain and discomfort of travel. This also creates a financial burden on Petitioner who only has part time work.

Petitioner requests, if this is to proceed, that a much closer location be provided for Petitioner to meet and provide evidence to any Court Representative should Standing and Court Jurisdiction be proven by Respondent and/or this honorable Court. All meetings will be video and audio recorded, with live witness at hand, for potential appeal, and cross and counterclaim records.

Respectfully submitted to this honorable court.

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Jeffrey T. Maehr  
924 E. Stollsteimer Rd

Pagosa Springs, CO 81147

Enclosures: Exhibits D, H, V, T, L, M, and C, in order of reference in above document, plus copies of NOTICE, Form 4, Form 5 and Filing Fee of \$60, Money Order, # 14-305032440.

I, Jeffrey T. Maehr, do hereby declare, under penalty of perjury, under the laws of the United States of America, without the "United States," that the materials contained in the above named EXHIBITS are true and correct copies of my originals, per Title 28, United States Code, Sec. 1746(1).

Executed on May 5, 2011

I declare under penalty of perjury that the foregoing 11 page document, plus Enclosures as listen above were presented before me by Jeffrey Thomas Maehr, known to me to be the person stated, and acknowledged this document on this \_\_\_\_\_ day of \_\_\_\_\_, 2011;

\_\_\_\_\_  
(NOTARY PUBLIC)

SEAL

### **Certificate of Mailing**

I, Jeffrey T. Maehr, do certify that I mailed four (4) true and correct copies of this original document and EXHIBITS to the following party, First Class, Certified mail, # 7010-1870-0001-2265-8671, on this \_\_\_\_\_ day of May, 2011:

**United States Tax Court  
400 Second St., N.W.  
Washington, D.C. 20217**

\_\_\_\_\_  
**Jeffrey T. Maehr**