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Congress of the United States
House of Representatives
Washington, DC 20515-4207

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George Duncan
General Delivery
Bath Springs, TN 38311

Dear George:

Thank you for contacting me about the federal income tax. I value your input and I appreciate your sharing with me the CD-ROM regarding the Truth-In-Taxation Hearing.

You make some good points, and I can certainly understand your concerns. The federal income tax was initially found to be unconstitutional in 1895 by the Supreme Court in *Polluck v. Farmers' Loan and Trust Company*. This decision was made based on the powers to tax granted to Congress in the Constitution. The Constitution divides all taxes into two classifications: direct taxes and indirect taxes. Direct taxes must be levied according to the rule of apportionment which means the funds collected must be divided and distributed among the states and counties.

In 1894 the Income Tax Act was signed into law which provided for the levying of taxes upon the gains, profits, or income derived from any kind of property, rents, interest, dividends, or salaries. The constitutionality of this law was challenged and upon examining the history of the constitutional provisions of the federal taxing power, the Supreme Court found it to be unconstitutional. This conclusion was based upon the court's finding that the Income Tax Act of 1894 was a direct tax which did not meet the constitutional specifications requiring all direct taxes to be apportioned among the states and counties.

The reason we have a federal income tax today is because of the Sixteenth Amendment to the Constitution which was ratified in 1913. This Amendment provides that:

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.

The Congress immediately took advantage of this clarification of its power and enacted another federal income tax substantially similar to the 1894 tax. This tax's constitutionality was challenged as well in *Brushaber v. Union Pacific Railroad Company*. The court under Chief Justice White found that because of the Sixteenth Amendment, the direct tax apportionment rule no longer applied to the income tax. White also noted the Court's ruling in the Polluck case was based upon the specifications of a direct tax in the Constitution and not upon the constitutionality of an income tax in itself. He also said that the underlying character of the income tax was not contrary to the ideas of the Constitution and that it was actually an indirect tax in character.

Chief Justice White discussed the impact of the Sixteenth Amendment and said it allowed the court to actually take into consideration the substance of the income tax instead of its form.

I think you'll agree that most Americans are frustrated with the complex tax code. This frustration is only compounded by the fact that compliance is enforced by a sometimes overbearing tax collection agency, the IRS. The complexity in determining tax payments points to the need for not just tax relief, but also real reform of the tax code.

This is why I am an original co-sponsor of H.R. 2714, the Date Certain Tax Code Replacement Act. This bill would eliminate the tax code by the end of 2005, forcing Congress to address this issue in a timely manner. While this legislation does not specify what form of taxation should replace the current tax code, it declares that the new tax system should be simple and fair and should protect the rights of taxpayers from IRS abuse.

Again, thank you for contacting me. Please continue to keep in touch. I look forward to hearing from you again.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ed Bryant', written in a cursive style.

Ed Bryant, M.C.

EB:law