

Short Ballot Title

An initiative to require documentation of authority of the United States to collect personal income taxes.

Long Ballot Title

An initiative to require documentation of authority of the United States to collect personal income taxes; amending Title 63, Idaho Code by adding a new Chapter 47, that the United States Government shall submit documentation of the authority of the United States to collect personal income taxes; that the Attorney General shall issue an opinion finding if the U.S. does have lawful authority to mandate personal income tax. The Attorney General may issue a certificate of taxability removing Federal Government authority to enforce the individual income tax in Idaho.

Text of Initiative

SECTION 1. DECLARATION OF PURPOSE AND AUTHORITY. (1)The fifth amendment to the United States Constitution guarantees that no person shall "be deprived of life, liberty, or property, without due process of law." As a result, any attempt to garnish wages, file a lien on a piece of property, confiscate funds from a financial account, or other confiscation of property cannot lawfully be carried out without a legal determination arising from a fair judicial proceeding or a lawfully negotiated settlement.

(2) A law must exist before one can be accused of violating it or prosecuted for such violation. The process of authorizing a tax for collection involves three steps - imposing the tax, assessing the amount of the tax, and assigning the liability for the tax to a person. While there is clear language both imposing and assessing the United States federal income tax, there have been many who have questioned the existence of any Public Law adopted that assigns any liability to a natural person in his individual capacity. The We the People Foundation and others have repeatedly petitioned Congress and the office of the President to disclose the law requiring any individual to be liable for a personal income tax with no response. The question also came up at the trial of Mr. Whitney Harrell and both the prosecution and the judge were unable to come up with the required statute to the satisfaction of the jury. In the documentary film, *Freedom to Fascism*, a member of the jury that acquitted Mr. Harrell, Marcy Brooks stated, "The judge promised us that he would give us the law, and we looked and we looked and it was not there. We wrote a note to the judge asking for a copy of the law. Ten minutes later we get a note back 'You have everything you need' but there was no law and he had promised. At that point I felt betrayed. This man promised us the law, and that is what this whole thing is about, the law."

(3) It is extremely costly for an innocent citizen to defend oneself against such potentially unlawful prosecutions by a federal government with significant monetary resources at its disposal. As such, the federal government can and does utilize these circumstances to threaten the people into giving up their rights to due process with regards to challenging the lawful authority for the personal income tax, despite the fact that government officials seem unwilling to publicly address such challenges. Therefore, it is the determination of the people of Idaho that it is more than fair and lawful to require the United States government to produce the law requiring individuals be liable for personal income taxes if it expects to prosecute and punish the

citizens of Idaho for infractions related to the personal income tax.

(4) The United States tax code is incredibly complicated and often contradictory. In order to file a personal income tax return, an individual is required to sign under penalty of perjury a statement that one has correctly filled out the return, even though the average person cannot knowingly make such a statement given the voluminous nature of the United States tax code and the underlying contradictions. The people of Idaho believe that such a circumstance could be held invalid by the "void-for-vagueness" doctrine as articulated by the Idaho Supreme Court which has stated, "This doctrine requires that a statute defining criminal conduct be worded with sufficient clarity and definiteness that ordinary people can understand what conduct is prohibited and that the statute be worded in a manner that does not allow arbitrary and discriminatory enforcement."

(5) If the United States does not have the authority to implement a graduated personal income tax, such revenues could easily be provided in a manner less injurious to the liberties and privacy of the American people with a constitutional direct proportional tax administered through the states.

(6) The founders of the United States of America never intended the federal government to be the sole arbiter of the limits of its own power. To say the supreme court of the United States has established itself as the ultimate determinant of the constitutionality of a law, is like allowing a child to grade its own tests. The Constitution, not the supreme court, is the ultimate authority in the United States, and such constitution never granted the supreme court the ability to veto state and federal laws in any and all circumstances. Power was to be distributed to officials in the state and federal governments, each one taking an oath to protect and defend the U.S. Constitution, not to swear allegiance to the arbitrary dictates of one or more federal officials, some of whom might not even be elected to office. Thus, Idaho has the right to require that any federal law enforced in the boundaries of its territory conforms to the plain meaning of the United States Constitution as understood by the average citizens and subject to the plain and common sense exercised by such citizens.

SECTION 2. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 63, Idaho Code, and to read as follows:

CHAPTER 47

PROTECTION FROM UNLAWFUL IRS PROSECUTIONS AND SEIZURES ACT

63-4701. SHORT TITLE. This act may be known and cited as the "Protection from Unlawful IRS Prosecutions and Seizures Act."

63-4702. DEFINITIONS. For the purposes of this chapter:

(1) "Certificate of taxability" shall mean the official pronouncement of the attorney general as required by subsection (4) of 63-4705, Idaho Code, certifying that the federal government has the right to compel individuals to pay personal income taxes and file personal income tax returns consistent with the claims of the Internal Revenue Service of the United States.

(2) "Trigger date" shall mean:

(a) The date 91 days subsequent to the effective date of this act if the United States does not submit the documentation required by 63-4705, Idaho Code by such time; or

(b) If such documentation is submitted by such time, the date of a final decision by the attorney general as to whether or not to issue a certificate of taxability.

63-4703. PROHIBITED ACTIONS. The following actions shall be prohibited by the terms of this chapter subsequent to the trigger date if a certificate of taxability has not been issued or has been revoked by the Idaho attorney general:

- (1) Filing a civil or criminal complaint against or arresting a natural person for failure to file personal income tax returns or pay personal income taxes;
- (2) Enforcement of any liens against the personal property of any natural person relating to failure to file personal income tax returns or pay personal income taxes;
- (3) Garnishment of wages of any natural person relating to failure to file personal income tax returns or pay personal income taxes; and
- (4) The seizure of financial or other assets of any natural person relating to failure to file personal income tax returns or pay personal income taxes.

63-4704. DOCUMENTATION OF PERSONAL INCOME TAX LIABILITY.

Documentation of the authority of the United States and the Internal Revenue Service to collect personal income taxes as required by subsection (1) of 63-4705, Idaho Code, if the federal government wishes to take actions specified in 63-4703, Idaho Code, after the trigger date shall include:

- (1) The specific sections of the Public Law or Public Laws which make any natural person liable for personal income taxes;
- (2) The specific sections of the Public Law or Public Laws which lawfully compels any natural person to file personal income tax returns;
- (3) A full explanation of the authority of the United States to collect personal income taxes in light of the U.S. supreme court decisions relating to the personal income tax and taxation of wages in the twenty years subsequent to the adoption of the sixteenth amendment. The document can cite any U.S. supreme court ruling after this time period as well, which might have invalidated a prior ruling or that generally deals with the same questions and upholds the position of the United States government;
- (4) A full explanation of how the personal income tax code complies with the void-for-vagueness doctrine premised upon the due process clause of the fourteenth amendment to the United States Constitution; and
- (5) Any other documentation that the officials of the federal government providing such documentation believe will support the case for the legality of the actions they intend to enforce in Idaho related to the personal income tax.

63-4705. CERTIFICATE OF TAXABILITY. (1) Within 90 days after this act becomes effective, the United States government shall submit the documentation described in 63-4704, Idaho Code, to the Idaho secretary of state if it wishes to continue to enforce violations of the United States Code relating to personal income tax returns in the state of Idaho as enumerated in 63-4703, Idaho Code. The secretary of state shall deliver a copy of this documentation to the Idaho attorney general, shall post it on the website of the secretary of state, and make it otherwise available for public viewing within five days of receiving such documentation.

(2) A public comment period shall start after the document is available to the public and has been posted to the website of the secretary of state and shall last for 30 days. All public comments relative to the United States government documents shall also be displayed on the

website of the secretary of state and made available for public viewing within five days of their receipt. Five days after the end of the public comment period all such public comments shall be delivered to the Idaho attorney general by the Idaho secretary of state.

(3) The Idaho attorney general is required to carefully consider the documentation submitted by the United States government and all the public comments as to whether a valid public law exists making natural persons personally liable for United States personal income taxes and whether there exists any valid public law requiring any natural person to file any type of personal income tax returns. The attorney general shall also consider whether such laws are consistent with the Supreme Court rulings on the constitutionality of federal personal income which came out subsequent to the adoption of the sixteenth amendment; however, the attorney general shall not be bound by what he might consider to be the invalid application of constitutional law by any court. The primary standard of review for constitutionality of a federal law or regulation shall be to consider whether the law or regulation is justified by specific authority in the express language of the federal or state Constitution cited, including the language of the text itself, a reasonable construction and extension of the text, the intent as beset can be ascertained of those who adopted the text, and the historic understanding and context in which the text was adopted. The attorney general shall also examine whether the personal income tax as enforced by the federal government violates the void-for-vagueness doctrine premised upon the due process clause of the fourteenth amendment to the U.S. Constitution.

(4) 60 days after receiving public comments from the secretary of state, the attorney general shall issue a legal opinion as required by (3) of this section and shall make such opinion available on the attorney general's website and for public viewing. His opinion shall also be delivered to the sheriff of each county in the state of Idaho.

(5) If the attorney general finds that the United States does in fact have the lawful authority to mandate that individuals are liable for personal income taxes and required to file returns, the attorney general shall issue a "certificate of taxability" that the federal government has the authority to enforce the individual income tax in the state of Idaho and to what extent such powers might be constrained by the Constitution and other valid laws; otherwise, such authority shall not be granted by the state, and activities described in 63-4703, Idaho Code, shall be prohibited in Idaho.

(6) The attorney general shall inform the United States Attorney General in writing of his or her decision.

(7) The attorney general shall withhold or revoke such certification if other unlawful actions of the United States government have caused the State of Idaho to nullify the enforcement of the personal income tax in the state of Idaho.

63-4706. AUTHORITY TO PURSUE COLLECTION OF INDIVIDUAL INCOME TAXES. (1) Subsequent to the trigger date, before any agent, official, or employee of the United States government may pursue any enforcement action covered in 63-4703, Idaho Code, the attorney general of the state of Idaho must publicly issue a "certificate of taxability." Such enforcement shall remain in compliance with other acts of the state and the United States Constitution.

(2) The existence of a "certificate of taxability" does not absolve officials of the United States government of the responsibility of coordinating with the county sheriffs for any enforcement action as might be required by Idaho law.

(3) Any federal law, rule, order, or other act by the federal government violating the provisions of this chapter is invalid in this state, is not recognized by and is specifically rejected

by this state, and is considered as null and void and of no effect in this state.

63-4707. UNAUTHORIZED SEIZURES. (1) No tax lien, expropriation of funds from a bank, garnishment of wages by the Internal Revenue Service or any other federal agency shall take place in the state of Idaho without a court order and affirmative due process complying with amendments four through six of the United States Constitution.

(2) Federal employees or agents, as well as any natural persons such as bank managers and employees may not transfer funds from a private account without the authorization of the owner of the account unless documentation of a court order demanding such confiscation is presented. Any court order in violation of the terms of 63-4703, Idaho Code, is invalid for the purposes of this section. Any action to the contrary of (1) or (2) of this section shall be considered theft and subject to the penalties imposed by 63-4709, Idaho Code.

(3) No person shall disclose information pertaining to a person's private bank or investment account to an agency of the federal government or of the state Idaho except that:

(i) The person who owns the account has provided consent to disclosure of the information; or

(ii) A court order or warrant has been issued upon probable cause pursuant to the fourth amendment to the United States Constitution. Any court order in violation of the terms of 63-4703, Idaho Code, is invalid for the purposes of this section.

(4) Provisions of this section shall apply even if a "certificate of taxability" is issued by the Idaho attorney general.

63-4708. COLOR OF LAW VIOLATIONS. If any individual attempts to compel a person in Idaho into surrendering a right or property guaranteed by this chapter by directly or indirectly threatening such person with the enforcement of a law or code which would be nullified by this chapter, the individual or individuals attempting to compel shall be subject to penalties as detailed in Section 63-4709, Idaho Code.

63-4709. PENALTIES. (1) An arrest, search, or seizure or attempted arrest, or seizure in violation of this chapter is unlawful, and individuals involved can be prosecuted by the county prosecuting attorney or attorney general's office for kidnapping if an arrest or attempted arrest occurred, for trespass if a search or attempted search occurred, for theft if a seizure or attempted seizure occurred, and for any applicable homicide offense if loss of life occurred. The individuals involved can also be charged with any other applicable criminal offenses in Title 18, Idaho Code.

(2) Any individuals involved with violations of 63-4708, Idaho Code, can be prosecuted by the county prosecuting attorney or attorney general's office for extortion as described by subsection (2)(e) of 18-2403, Idaho Code. The individuals involved can also be charged with any other applicable criminal offenses in Title 18, Idaho Code.

(3) Violations of subsection (3) of 63-4707, Idaho Code, shall be subject to a fine of \$1,000 per violation by a natural person or \$10,000 per violation for a corporation.

(4) Victims of crimes prosecutable under this section shall also be entitled to independently pursue civil action against the perpetrators of these crimes.

SECTION 3. SEVERABILITY. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.