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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF ARIZONA

10 United States of America,
11
12 Plaintiff,
13
14 v.
15 Janice Sue Taylor,
16 Defendant.

No. CR-10-0400-PHX-MHM

**GOVERNMENT’S RESPONSE TO
MOTION TO QUASH AS A FIRST
AMENDMENT PETITION FOR
REDRESS OF GRIEVANCES AND
AS CHALLENGE TO AUTHORITY**

17 The United States, through undersigned counsel, responds to the Motion to Quash as a
18 First Amendment Petition for Redress of Grievances and as Challenge to Authority by Janice
19 Sue Taylor (doc. 117). As explained below, Ms. Taylor articulates no legal basis for quashing
20 the indictment of March 30, 2010.

21 **I. Law and Argument.**

22 Ms. Taylor claims that the United States lacks standing to prosecute in this case.
23 Moreover, Ms. Taylor argues that this Court lacks personal jurisdiction over her, territorial
24 jurisdiction, and subject matter jurisdiction to adjudicate this case. Further, she argues that IRS
25 lacks authority to assess taxes on her or require her to file income tax forms. Without such
26 authority, Ms. Taylor claims, the IRS and the government lack authority to prosecute Ms. Taylor
27 for Title 26 related offenses. Finally, Ms. Taylor claims that on the basis of contract law, this
28 Court should quash the indictment. Each of Ms. Taylor’s arguments rely on misinterpretation

1 and misapplications of law. Consequently, each point lacks any legal basis to justify quashing
2 the indictment. Each argument is addressed in turn.

3 A. *In Personam Jurisdiction*

4 Ms. Taylor alleges that this Court lacks personal jurisdiction over her because Ms. Taylor
5 claims that she is not a citizen of the United States, having not been born in Puerto Rico, the
6 Virgin Islands, Guam, or American Samoa. Her argument is without merit because whether
7 Taylor is a citizen of the United States is immaterial to any issue in this case. Rather, the duty for
8 individuals to pay federal income tax arises under pertinent sections of the Internal Revenue Code. *E.g.*,
9 26 U.S.C. § 1 (imposing a tax rate on every individual depending on that individual's taxable income);
10 26 U.S.C. 6012 (filing requirements for all individuals whose gross income exceeds yearly exemption
11 amount); 26 U.S.C. 6151 (requiring individuals to pay any liability indicated on their tax return).

12 B. *"Territorial Jurisdiction"*

13 Ms. Taylor argues that this Court lacks "territorial jurisdiction" because Title 26 does not
14 provide a definition for the United States as "to include the 50 Union states."

15 While we believe such an argument does not merit a serious response, we offer the
16 following. "The term 'United States' when used in a geographical sense includes only the States
17 and the District of Columbia." 26 U.S.C. § 7701(a)(9). The term includes and including "when
18 used in a definition contained in this title shall not be deemed to exclude other things otherwise
19 within the meaning of the term defined." § 7701(c). "Unless a statute or these rules permit
20 otherwise, the government must prosecute an offense in a district where the offense was
21 committed" Fed. R. Crim. P. 18.

22 Accordingly, the plain language of the statute defines United States as including all fifty
23 states. The fifty states that comprise the United States are within a recognized meaning of the
24 term United States. Moreover, the March 30 indictment alleges that Taylor committed her
25 alleged 26 U.S.C. §§ 7201 and 7203 violations in the District of Arizona. Accordingly, this
26 Court has the requisite territorial jurisdiction to adjudicate the matters presented in the
27 indictment. Therefore, Ms. Taylor's "territorial jurisdiction" deficiency lacks merit.

1 C. *Subject Matter Jurisdiction*

2 Ms. Taylor argues that this court should dismiss the indictment because this Court lacks
3 subject matter jurisdiction to adjudicate Title 26 violations.

4 Federal district courts have jurisdiction of prosecution of all crimes against the United
5 States, including Title 26 violations. *United States v. Przbyla*, 737 F.2d 828, 829 (9th Cir. 1984);
6 *see also* 18 U.S.C. § 3231. The indictment alleges violations of 26 U.S.C. §§ 7201 and 7203.
7 These are violations against the United States. Therefore, this Court has jurisdiction.

8 D. *The Internal Revenue Service Has Authority To Assess Taxes and Require*
9 *Individuals to File Tax Returns.*

10 1. *Reliance on the Internal Revenue Manual as Authority that Revenue*
11 *Agents May Not Assess Taxes.*

12 Ms. Taylor relies on the Internal Revenue Manual (“IRM”) to assert that the IRS lacks
13 authority to assess taxes. Motion, at 10. She argues that she is not required to file Forms 1040,
14 1041 and 1120 because these forms are not included in the IRM’s list of forms revenue officers
15 can prepare under 26 U.S.C. § 6060(b).

16 A taxpayer who does not file faces both civil and criminal penalties. *Helvering v. Mitchell*, 303
17 U.S. 391, 399 (1938). (“In assessing income taxes, the Government relies primarily upon the disclosure
18 by the taxpayer of the relevant facts . . . in his annual return. To ensure full and honest disclosure, to
19 discourage fraudulent attempts to evade the tax, Congress imposes sanctions . . . criminal or civil.”).
20 Filing tax returns and paying tax is not voluntary. 26 U.S.C. §§ 6151, 6012(a)(1)(A). If the
21 taxpayer received more the annual income exemption, then the taxpayer is obligated to file a return. *See*
22 26 U.S.C. §§ 1, 6012; *United States v. Hurd*, 549 F.2d 118, 119 (9th Cir. 1977).

23 Ms. Taylor’s reliance upon a government manual as authority that the IRS may not assess or
24 require her to file is groundless. Statutory authority and relevant case law unequivocally establish the
25 government’s ability to establish procedure to assess and collect taxes. This authority is not reliant on
26 any guidelines that the IRS manual sets forth. Therefore, Ms. Taylor fails to articulate a legal basis for
27 her claim that the IRS lacks authority to assess taxes.

2. *Reliance on Paperwork Reduction Act to Invalidate the Filing Requirement.*

Ms. Taylor argues that she is not obligated to file a Form 1040 because the form lacks “a valid OMB control number”^{1/}. She asserts that the forms are invalid because they fall within the scope of the Paperwork Reduction Act (“PRA”) of 1980. 44 U.S.C. § 3501.

Congress enacted the PRA to minimize the paperwork burden on the public by requiring certain governmental forms to have an OMB control number. 44 U.S.C. §§ 3512(a), 3512(b). Congress did not enact the PRA “to create a loophole in the tax code.” *United States v. Hicks*, 947 F.2d 1356, 1359 (9th Cir. 1991); *United States v. Bentson*, 947 F.2d 1353, 1355 (9th Cir. 1991).

Accordingly, the PRA does not excuse Ms. Taylor from filing a tax return.

E. *Contract Fraud*

Ms. Taylor argues that the relationship between her and the United States is contractual concerning her duty to pay income tax. This contract, Ms. Taylor argues, should be void for numerous reasons under contract law.

Here, contract law does not control. *United States v. Drefke*, 707 F.2d 978, 981 (8th Cir. 1983) (rejecting the argument that a taxpayer’s liability arises under a contractual agreement when the taxpayer signs a Form 1040). Rather, the duty for individuals to pay federal income tax arises under pertinent sections of the Internal Revenue Code. Title 26 U.S.C. § 1 (imposing a tax rate on every individual depending on that individual’s taxable income); 26 U.S.C. 6012 (filing requirements for all individuals whose gross income exceeds yearly exemption amount); 26 U.S.C. 6151 (requiring individuals to pay any liability indicated on their tax return).

The foregoing sections impose on Ms. Taylor the duty to pay. The Indictment alleges that in the years in question, Ms. Taylor’s income exceeded the exemption amount. It further alleges that in these

^{1/} Contrary to Ms. Taylor’s assertion otherwise, Form 1040 includes an OMB control number.

1 years, Ms. Taylor failed to file a return or pay the tax amount assessed. Consequently, Ms. Taylor meets
2 the statutory requirements to file and pay any amount owed. This duty has no basis in contract law.
3 Accordingly, Ms. Taylor is not excused from tax obligations on the basis of contract law.

4
5 **II. Conclusion.**

6 For the forgoing reasons, each argument raised by Ms. Taylor to quash the indictment is without
7 merit. Therefore, the United States respectfully requests that the Court deny Taylor’s Motion to Quash
8 as a First Amendment Petition for Redress of Grievances and as Challenge to Authority.

9 Respectfully submitted this 21st day of October, 2010.

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11 DENNIS K. BURKE
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13 District of Arizona

14 *s/ Frank T. Galati*

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16 JAMES R. KNAPP
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18 Certificate of Service

19 I hereby certify that on 10/21/2010, I mailed copies of the attached document to the following:

20 Janice Sue Taylor
21 3341 Arianna Ct.
22 Gilbert, AZ 85298

23 *s/Michelle L. Colberg*
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