

1 DENNIS K. BURKE  
United States Attorney  
District of Arizona

2  
3 FRANK T. GALATI  
Assistant U.S. Attorney  
Arizona State Bar No. 003404  
frank.galati@usdoj.gov

4  
5 JAMES R. KNAPP  
Assistant U.S. Attorney  
Arizona State Bar No. 021166  
james.knapp2@usdoj.gov  
6 Two Renaissance Square  
40 N. Central Avenue, Suite 1200  
7 Phoenix, Arizona 85004-4408  
Telephone: (602) 514-7500

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  
17 Defendant.

No. CR-10-0400-PHX-MHM  
**GOVERNMENT’S RESPONSE TO  
DEFENDANT’S MOTION IN  
LIMINE RE “TAXPAYER” AND  
“TAX PROTESTOR”**

16 The United States, through undersigned counsel, opposes Defendant’s motion in limine  
17 (Doc. 213) requesting the Court to prohibit the United States from using the terms “taxpayer”  
18 and “tax protestor.”

19 Defendant claims that she is not a “taxpayer” because she does not operate a distillery.  
20 Her argument seems to be a humorous version of the logical fallacy known as “denying the  
21 antecedent”:

- 22 1. If a person operates a distilled spirits plant, then that person is liable for internal  
23 revenue tax.
- 24 2. Janice Sue Taylor does not operate a distilled spirits plant.
- 25 3. Therefore, Janice Sue Taylor is not liable for internal revenue tax.

26 This is, to put it charitably, unpersuasive. “Taxpayer” is defined as “any person subject  
27 to any internal revenue tax.” See 26 U.S.C. § 7701(a)(14) (emphasis added). The very first  
28 section of the Internal Revenue Code imposes an income tax, and 26 U.S.C. § 61 defines gross

1 income broadly as “all income from whatever source derived,” including “[c]ompensation for  
2 services, including . . . commissions”; “[g]ross income derived from business”; “[g]ains derived  
3 from dealings in property”; and “[i]ncome from an interest in an estate or trust.” *See* 26 U.S.C.  
4 § 1, § 61(a).

5 Section 5005, which Defendant cites, refers to “internal revenue tax” owed for operating  
6 a distillery, but it does not state that alcohol is the only source of federal tax revenue or  
7 otherwise define the term “internal revenue tax.” *See* 26 U.S.C. § 5005(c)(1) (“Every person  
8 operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax  
9 on all distilled spirits while the distilled spirits are stored on such premises”), (e)(1) (“Any  
10 person who withdraws distilled spirits from the bonded premises of a distilled spirits plant  
11 without payment of tax . . . shall be liable for the internal revenue tax on such distilled spirits”).

12 <sup>1/</sup> Thus, whether Defendant owes taxes under 26 U.S.C. § 5005 says nothing about whether she  
13 is a “taxpayer” subject to taxes under the other sections of the Internal Revenue Code.

14 Courts have routinely called similar claims of non-taxpayer status frivolous. For example,  
15 in *United States v. Studley*, the Ninth Circuit denied as frivolous the defendant’s claim “that she  
16 is not a ‘taxpayer’ because she is an absolute, freeborn and natural individual.” 783 F.2d 934,  
17 937 (9<sup>th</sup> Cir. 1986). The court went on to note that “this argument has been consistently and  
18 thoroughly rejected by every branch of the government for decades. Indeed advancement of such  
19 utterly meritless arguments is now the basis for serious sanctions imposed on civil litigants who  
20 raise them.” *Id.* (citing *United States v. Romero*, 640 F.2d 1014, 1016 (9<sup>th</sup> Cir. 1981) (“Romero’s  
21 proclaimed belief that he was not a ‘person’ and that the wages he earned as a carpenter were  
22 not ‘income’ is fatuous as well as obviously incorrect.”)).

23 //

24 //

---

25 <sup>1/</sup> The 1954 version of the Internal Revenue Code contained numerous references to  
26 “internal revenue tax,” although many of the sections were later repealed. *See, e.g.*, 26 U.S.C.  
27 §§ 4591 (1954) (taxing foreign oleomargarine), 4701 (1954) (narcotics), 4831(b) (1954)  
(cheese), 5707(c) (1954) (cigarettes).

1 Furthermore, Defendant cites no authority and provides no explanation for her request  
2 to prohibit the use of the term "tax protestor." Accordingly, her motion should be denied.

3  
4 Respectfully submitted this 25<sup>th</sup> day of March, 2011.

5 DENNIS K. BURKE  
6 United States Attorney  
7 District of Arizona

8 *s/ James Knapp*

9 FRANK T. GALATI  
10 JAMES R. KNAPP  
11 Assistant U.S. Attorneys

12 Certificate of Service

13 I hereby certify that on 3/25/2011, I electronically transmitted the attached document to the  
14 Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic  
15 Filing to the following CM/ECF registrants:

16 Susan Anderson

17 In addition, I mailed copies of the attached document to the following:

18 Janice Sue Taylor  
19 3341 Arianna Ct.  
20 Gilbert, AZ 85298

21 *s/ James Knapp*  
22  
23  
24  
25  
26  
27  
28