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APR 28 2011	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	S. DEPUTY

1 Janice Sue Taylor
 2 3341 Arianna Court
 3 Near Gilbert, Arizona
 4 Mailing address of convenience
 5 Not a claimed residence or domicile
 6 Without the United States,

7
 8 **UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA**

9 UNITED STATES OF AMERICA,
 10 Alleged Plaintiff,
 11 vs.
 12 Janice Sue Taylor,
 13 Alleged Defendant

) Case No.: CR-10-400-PHX-DGC
) JURY INSTRUCTIONS
) SUBMITTED BY
) Janice Sue Taylor

14 **STATUS OF AFFIANT**

15 Comes now, Affiant Janice Sue Taylor, a living woman, not a corporation or other type
 16 of artificially created person, and not domiciled or residing in the district of Columbia or any
 17 other Federal Territory owned by the United States of America; "hereinafter the Affiant", by
 18 Special Visitation or Appearance, not Granting jurisdiction nor recognizing this court's right to
 19 try her; but intervening in a Foreign Bankrupt Jurisdiction on behalf of the Alleged accused,
 20 Fictional JANICE SUE TAYLOR, "hereinafter the Accused". Affiant being of sound mind and
 21 competent age to make this Affidavit with personal knowledge of the facts. Affiant is not trained
 22 in the law, nor is She an Attorney, nor is affiant appearing Pro Se; but rather of right in Sui Juris
 23 as the authorized intervener but not surety, of the above civil fiction.

24 **JURY INSTRUCTIONS**

25 Affiant is herein entering into this court a set of Jury Instructions given to the Judge on
 26 Wednesday the 27th of April to be applied in this instance case on Affiants behalf before the Jury
 27 was given the final instructions. To date Judge G. Campbell has not used any of Affiant's Jury
 28 requests and only used the standard form or whatever the Prosecutors have entered. Affiant
 objects to Judge Campbell giving jury instructions to the Jury concerning the definition of

1 Income as the definition was not a Supreme Court or Constitutional decision, even though
2 Affiant called the attention to the wrong definition being used. He was made aware that only
3 congress can define the word income as per the guidelines of the Constitutional mandate.

4 In addition, Affiant objects to these proceedings because she has been denied a jury of
5 her peers, forced to appear before a court that is not an Article III Constitutional Court of original
6 jurisdiction 1787 as amended 1791. Instead the record shows that Affiant was brought before an
7 administrative court formed by the 45th Congress 1878 for the Corporation called the United
8 States of America and various other trade mark names for the exclusive business activities and
9 not the Constitutional requirements of the original Constitutional jurisdiction, which is not
10 applicable to me.

11
12
13 **WITHOUT PREJUDICE**

14 **Pursuant to UCC 1-308: "I reserve my right not to be compelled to perform under any**
15 **contract, commercial agreement or bankruptcy that I did not enter knowingly, voluntarily,**
16 **and intentionally. And furthermore, I do not and will not accept the liability of the**
17 **compelled benefit of any unrevealed contract or commercial agreement or bankruptcy". I**
18 **have made a timely and explicit reservation of my rights and insist that any statutes used in**
19 **my defense shall be construed to be in harmony with the Common Law.**

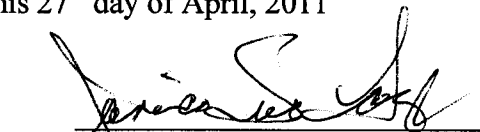
20 Affiant states; I am not an expert in the law however I do know right from wrong. If
21 there is any human being damaged by any statements herein, if he will inform me by
22 facts I will sincerely make every effort to amend my ways. I hereby and herein reserve the
23 right to amend and make amendment to this document as necessary in order that the truth
24 may be ascertained and proceedings justly determined. If the parties given notice by
25 means of this document have information that would controvert and overcome this
26 Affidavit, please advise me IN WRITTEN AFFIDAVIT FORM within ten (10 days
27 from receipt hereof providing me with your counter affidavit, proving with particularity by
28 stating all requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate
facts or conclusions of law, that this Affidavit Statement is substantially and materially false

1 sufficiently to change materially my status and factual declarations. Your silence stands as consent
2 to, and tacit approval of, the factual declarations herein being established as fact as a matter of law
3 of all facts herein, in perpetuity, the said confession being *res judicata* and *stare decisis*.

4
5 May the will of our Heavenly Father, through the power and authority of the blood of his son be
6 done on Earth as it is in Heaven.

7
8 28 USC §1746(1)

9 I, declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct. Signed this 27th day of April, 2011

11 

12 Janice Sue Taylor, sui juris
13 Of one's own right, possessing full social
14 Civil rights, sovereign character and capacity.
15 Without the United States, U.S.C. 28, §1746 (1)

Certificate of Service

I, Janice Sue Taylor, hereby declare and state that I have filed a true and correct copy of the above document Affidavit of objection. Said Right Extended To Any Attorney, Whether Or Not At Bar, If Providing Or Proposing To Provide "Assistance - Not Force - Of Counsel" with the Clerk of the Court for the [Alleged] United States District Court For The [Alleged] District Of Arizona, said [Alleged] Court Appearing And Existing [Supposedly] As A Possession Of Its Own And NOT Lawfully Existing In The Legal or Organic County of Maricopa, Legal or Organic [Proposed] State of Arizona, and have mailed a copy hereof, postage prepaid thereon, to the Alleged U.S. Attorney's Office at the following addresses set forth below.

Frank T. Galati,
James Richard Knapp,
Office of the Alleged U.S. Attorney
40 N. Central Ave. # 1200
Phoenix, Arizona near 85004

Susan Anderson
850 W. Adams Street, Suite 201
Phoenix, Arizona near 85007

RESPONSE TO THIS EXHIBITED NOTICE IS REQUIRED - *Qui Tacit, Consentire Videtur, Ubi Tractatur De Ejus Commodo* (He[She] who is silent is considered as assenting [to the matter in question] when his[/her] interest is as stake.)

Dated this 27, day of April 2011



Janice Sue Taylor, sui juris, W.O.P.

Of one's own right, possessing full social
Civil rights, sovereign character and capacity
Pursuant to U.S.C. 28 §1746 (1)
Without the United States,

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 8

CREDIBILITY OF WITNESSES

I remind you that it is your job to decide whether the government has proved the guilt of the defendant beyond a reasonable doubt. In doing so, you must consider all of the evidence. This does not mean, however, that you must accept all of the evidence as true or accurate.

You are the sole judges of the credibility or "believability" of each witness and the weight to be given the witness's testimony. An important part of your job will be making judgments about the testimony of the witnesses including the defendant who testified in this case. You should decide whether you believe all or any part of what each person had to say, and how important that testimony was. In making that decision I suggest that you ask yourself a few questions: Did the person impress you as honest? Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome of the case? Did the witness have any relationship with either the government or the defense? Did the witness seem to have a good memory? Did the witness clearly see or hear the things about which he testified? Did the witness have the opportunity and ability to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses? These are a few of the considerations that will help you determine the accuracy of what each witness said.

The testimony of the defendant should be weighed and his credibility evaluated in the same way as that of any other witness.

Your job is to think about the testimony of each witness you have heard and decide how much you believe of what each witness had to say. In making up your mind and reaching a verdict, do not make any decisions simply because there were more witnesses on one side than on the other. Do not reach a conclusion on a particular point just because there were more witnesses testifying for one side on that point.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 9

IMPEACHMENT BY PRIOR INCONSISTENCIES

The testimony of a witness may be discredited by showing that the witness testified falsely concerning a material matter, or by evidence that at some other time the witness said or did something, or failed to say or do something, which is inconsistent with the testimony the witness gave at this trial.

Earlier statements of a witness were not admitted in evidence to prove that the contents of those statements are true. You may consider the earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness and therefore whether they affect the credibility of that witness.

If you believe that a witness has been discredited in this manner, it is your exclusive right to give the testimony of that witness whatever weight you think it deserves.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 10

EXPERT WITNESS

During the trial you heard the testimony of _____, who has expressed opinions concerning the tax laws. If scientific, technical, or other specialized knowledge might assist the jury in understanding the evidence or in determining a fact in issue, a witness qualified by knowledge, skill, experience, training, or education may testify and state an opinion concerning such matters.

Merely because such a witness has expressed an opinion does not mean, however, that you must accept this opinion. You should judge such testimony like any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, and all other evidence in the case.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 11

CAUTION-CONSIDER ONLY CRIME CHARGED

You are here to decide whether the government has proved beyond a reasonable doubt that the defendant is guilty of the crime charged. The defendant is not on trial for any act, conduct, or offense not alleged in the indictment. Neither are you concerned with the guilt of any other person or persons not on trial as a defendant in this case, except as you are otherwise instructed.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 13

QUESTIONS

Let me emphasize that a lawyer's question is not evidence. At times, a lawyer may have incorporated into a question a statement that assumed certain facts to be true and asked the witness if the statement was true. If the witness denies the truth of a statement, and if there is no evidence in the record proving that the assumed fact is true, then you may not consider the fact to be true simply because it was contained in the lawyer's question. On the other hand, if the witness adopts or agrees to the assumed facts in his or her answer, then the witness may be considered to have testified to the facts assumed in the question, and his or her testimony is evidence of those facts.

L. Sand, T. Siffert, W. Loughlin & S. Weiss, Modern Federal Jury Instructions, ¶ 5.01, at No. 5-3 (adapted) [Model Instructions from this source are hereinafter cited as "Sand, ¶ _____, at No. ____."]; *United States v. DeFillipo*, 590 F.2d 1228, 1240 (2d Cir.), cert. denied, 442 U.S. 920 (1979).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 15

EACH ELEMENT MUST BE ESTABLISHED BEYOND REASONABLE DOUBT

Unless the government proves beyond reasonable doubt that the defendant has committed every element of each of the offenses with which he is charged, you must find the defendant not guilty.

See Vol. 1, E. Devitt & C. Blackmar, Federal Jury Practice and Instructions § 12.10 (4th ed. 1992).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 16

THE GOVERNMENT AS A PARTY

You are to perform the duty of finding the facts without bias or prejudice as to any party. You are to perform your final duty in an attitude of complete fairness and impartiality. The fact that the prosecution is brought in the name of the United States of America entitles the government to no greater consideration than that accorded to any other party to litigation. By the same token, it is entitled to no less consideration. All parties, whether government or individuals, stand as equals under the laws.

Sand, ¶ 2.01, at No. 2-5 (adapted).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 18

LAW ENFORCEMENT WITNESS

Because a particular witness may be a law enforcement officer such as an investigator, a FBI agent, or for that matter an employee of any other government agency, that does not mean that his or her testimony is deserving of any special consideration or any greater weight by reason of that fact.

It is quite legitimate for counsel to attack or question the credibility of an agent or other government employee on the ground that his or her testimony may be colored by personal or professional interest in the outcome of the case.

See Bush v. United States, 375 F.2d 602 (D.C. Cir. 1967).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 19

GUILT BY ASSOCIATION

There is a long-standing rule against "guilt by association." A defendant may not be convicted merely because people who worked with him committed criminal conduct. In this case, the defendant cannot be convicted simply because he was associated with or friendly with anyone you may find to have acted in violation of the law. Each element of each offense must be proved independently against the defendant individually on the basis of ^{her} his own conduct and state of mind.

See *United States v. Romo*, 669 F.2d 285, 288 (5th Cir. 1982).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 20

SEPARATE CONSIDERATION OF CHARGES

SINGLE DEFENDANT

MULTIPLE COUNTS

Each count of the indictment charges the defendant with having committed a separate offense.

Each count and the evidence relating to it should be considered separately, and a separate verdict should be returned as to each count. Your verdict of guilty or not guilty of an offense charged in one count should not control your decision as to any other count.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 22

WHAT IS NOT TAX EVASION

The failure to act is an act of omission, and is neither an act of commission or an affirmative action.

Failing to file tax returns, failing to keep records, failing to report and failing to pay income taxes are not affirmative acts or acts of commission.

See *Sansone v. United States*, 380 U.S. 343, 351 (1964); *Lawn v. United States*, 355 U.S. 339, 361 (1958); *Spies v. United States*, 317 U.S. 492, 496 (1942); *United States v. Romano*, 938 F.2d 1569 (2nd Cir. 1991); *United States v. Tarnopol*, 561 F.2d 466, 474-75 (3rd Cir. 1977); *United States v. Doyle*, 956 F.2d 73, 75 (5th Cir. 1992); *Griffin v. United States*, 173 F.2d 909, 910 (6th Cir. 1949); *Bridgeforth v. United States*, 233 F.2d 451, 453 (6th Cir. 1956); *United States v. Mesheski*, 286 F.2d 345, 346 (7th Cir. 1961); and *United States v. Voorhies*, 658 F.2d 710, 715 (9th Cir. 1981).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 24

The charge of income tax evasion includes the lesser charge of willful failure to file federal income tax returns.

If you find a defendant not guilty of income tax evasion, or if after making every reasonable effort to reach a unanimous verdict on that charge, you find that you cannot agree, then you must go on to consider whether the government has proved the lesser charge of willful failure to file federal income tax returns.

If you decide that the government has proved this lesser charge beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the verdict form. If you decide that the government has not proved this lesser charge beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the form. Your foreperson should then sign the form, put the date on it and return it to me.

Sixth Circuit Pattern Criminal Jury Instructions 8.07. See *United States v. Buckley*, 586 F.2d 498, 504-05 (5th Cir. 1979)(§7203 offenses are lesser included offenses of §7201); *United States v. Boone*, 951 F.2d 1526, 1541 (9th Cir. 1991); and *United States v. Snyder*, 766 F.2d 167, 171 (4th Cir. 1985).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 26

SPECIFIC INTENT

The specific intent of willfulness is an essential element of both offenses of filing false tax returns and willfully failing to file tax returns.

The term "willfully" used in connection with this offense means voluntarily, purposefully, deliberately and intentionally as distinguished from accidentally, inadvertently, or negligently.

Mere negligence, even gross negligence, is not sufficient to constitute willfulness under the criminal law.

Filing false returns and willfully failing to file tax returns are willful if the defendant's actions were voluntary and purposeful, and committed with the specific intent to commit such offenses; that is to say, with a bad purpose or evil motive to disobey or disregard the law which required the defendant to file the tax returns at issue in this case.

On the other hand, the defendant's conduct is not willful if you find that ^{her} ~~his~~ actions were the result of negligence, inadvertence, accident or reckless disregard for the requirements of the law, or due to his good faith misunderstanding of the requirements of the law.

Section 35.31, Devitt and Blackmar, Federal Jury Practice and Instructions, Third Edition, 1977.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 27

WILLFULNESS

"Willfulness" is negated by the defense of a good faith mistake of the law's requirements. To make such a determination, one must inquire into the defendant's mind, ~~his~~^{her} mental attitude and approach to the situation which the law required of ~~him~~^{her} some act. If you find that the defendant, subjectively in ~~his~~^{her} own mind, believed that ~~he~~^{she} was not required by the law to file the tax returns in question, it will be your duty to acquit ~~him~~^{her}.

See *United States v. Aitken*, 755 F.2d 188 (1st Cir. 1985); *United States v. Phillips*, 775 F.2d 262 (10th Cir. 1985); *United States v. Whiteside*, 810 F.2d 1306 (5th Cir. 1987).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 28

WILLFULNESS

The law might very clearly tax specified receipts, yet a defendant might be able to prove that ~~he~~ honestly believed the receipts were nontaxable, and therefore ~~he~~ did not act willfully. Whether the defendant's beliefs about the legality of ~~his~~^{her} actions were right or wrong, reasonable or unreasonable, is irrelevant to willfulness; the only issue is whether those beliefs were in fact held.

If you believe that the defendant held sincere and honest beliefs that ~~his~~^{her} receipts were not taxable, it is your duty to acquit him of all counts in the indictment.

See *United States v. Aitken*, 755 F.2d 188 (1st Cir. 1985).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 29

ANTI-INJUNCTION LAW

The Anti-Injunction Statute, 26 U.S.C. §7421, is a law that prevents any person from commencing a lawsuit or civil action against the government that is designed to enjoin or prevent the assessment or collection of any tax. Thus for income taxes, which are taxes that fall within the scope of the Anti-Injunction Statute, no person can civilly sue the government to enjoin, prevent, or challenge any assessment or collection of an income tax.

Further, no person can bring any type of civil action seeking declaratory judgment pursuant to 28 U.S.C. §2201, because the law prevents all actions for declaratory judgments with respect to federal taxes.

Thus, a person is prevented by law from civilly seeking a determination of ^{her} ~~his~~ liability for income taxes and from seeking to prevent the assessment or collection of an income tax allegedly due and owing.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 30

RELIANCE ON COURT DECISIONS

Because of the operation of law, a party must make ^{her}his own decisions, unaided by a civil court, regarding his liability for income taxes and the assessment and collection of income taxes. Accordingly, a person may study case law and statutes to aid him in making those decisions. As a result, ~~he~~ may reach a belief and decision concerning ^{her}his liability for income taxes and about what ~~he~~ is required and not required to do in reference to this subject.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 31

RELIANCE ON COURT DECISIONS

In forming opinions and beliefs regarding one's liability for income tax, the requirement for one to make certain returns, pay taxes, and any other aspect of income tax law, a person may rely upon decisions of the United States Supreme Court and other courts.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 32

RELIANCE ON COURT DECISIONS

In relying upon opinions of the U.S. Supreme Court in reference to tax matters, a person can reach certain conclusions and beliefs regarding ^{her} ~~his~~ liability for a tax and the applications of tax law to ^{her} ~~him~~. If he does rely upon U.S. Supreme Court opinions, ^{she} ~~he~~ is not acting "willfully" within the meaning of the law that the defendant is charged with having violated. This is so even if ^{he} ~~she~~ misinterprets or misunderstands such opinions.

See *United States v. Bishop*, 412 U.S. 346, 93 S.Ct. 3008 (1973).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 33

RELIANCE ON GOVERNMENT DOCUMENTS

An American citizen such as the defendant has a right to rely upon representations and statements made by the government and appearing in official publications or documents.

See *Raley v. Ohio*, 360 U.S. 423, 438, 79 S.Ct. 1257, 1266 (1959); *Cox v. Louisiana*, 379 U.S. 559, 85 S.Ct. 476 (1965); and *United States v. Laub*, 385 U.S. 475, 87 S.Ct. 574 (1967).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 34

ELEMENT OF WILLFULNESS

If the defendant acted in good faith, that is to say he actually believed the actions he took were allowable by law, then he is not guilty of the offenses of filing false tax returns and willfully failing to file tax returns. It does not matter whether the defendant was right or wrong in ^{her}his beliefs, nor does it matter if ^{her}his beliefs make sense, or sounds reasonable to you the jury or to me as the judge. The only thing that matters is whether or not the defendant actually believed ~~he~~ was correct in his actions. Also, it is not the defendant's burden to prove that ~~he~~ did believe ^{her}his actions were correct, but rather it's the Government's burden to prove that ~~he~~ did not.

It is for you, the jury, to decide whether the Government has proven that the defendant willfully committed these offenses by proving beyond a reasonable doubt that ~~he~~ did not actually believe ^{her}his actions were correct, and by proving all the other elements that I have explained to you in these instructions, or whether the defendant believed ^{her}his actions were proper. If you find that the Government has failed to meet its burden, then you must find the defendant not guilty of these offenses. If there is any doubt in your mind as to this issue, or even if you conclude that the defendant could have only believed ^{her}his actions were proper by abysmal ignorance and the rankest kind of stupidity, yet you find that ~~he~~ believed ~~he~~ was correct, you must find the defendant not guilty.

See *United States v. Powell*, 955 F.2d 1206 (9th Cir. 1991); *Cheek v. United States*, 498 U.S. 192 (1991); *United States v. Pomponio*, 429 U.S. 10, 11 n. 2, 13 (1976); *United States v. Wilkins*, 385 F.2d 465, 474 (4th Cir. 1967); *United States v. Burton*, 737 F.2d 439 (5th Cir. 1984); *United States v. Bass*, 784 F.2d 1282 (5th Cir. 1986); *United States v. Lisowski*, 504 F.2d 1268, 1270 (7th Cir. 1974); *United States v. Lewis*, 671 F.2d 1025, 1027 (7th Cir. 1982); and *United States v. Goetz*, 746 F.2d 705 (11th Cir. 1984).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 35

ELEMENT OF WILLFULNESS

To act "willfully" means to act voluntarily and intentionally in violation of a known legal duty. Mere negligence, even gross negligence, does not constitute willfulness under the criminal law. A defendant does not act willfully if he believes in good faith that he is acting within the law, or that ^{her} his actions comply with the law. A good faith belief is one which is honestly and genuinely held. Therefore, if the defendant subjectively believed that what he was doing was in compliance with the tax statutes, he cannot be said to have the criminal intent required to engage in tax evasion or to willfully fail to file federal income tax returns. In proving willfulness, it is the government's burden to prove beyond a reasonable doubt that the defendant did not act with a good faith belief as to what the law required of ^{her} him. If you find that the defendant believed in good faith he was acting in compliance with the law as to any count, you must find ^{her} him not guilty as to that count.

A belief need not be objectively reasonable to be held in good faith. Nevertheless, you may consider whether the defendant's stated belief about the tax statutes was reasonable as a factor in deciding whether the belief was honestly or genuinely held. In considering the defendant's good faith misunderstanding of the law, you must make your decision based upon what the defendant believed in ^{her} his own mind, and not upon what you or someone else believe or think the defendant ought to believe. Whether the defendant's

beliefs about the legality of his actions were right or wrong, reasonable or unreasonable, is irrelevant to the issue of willfulness; the only issue is whether those beliefs were in fact held by the defendant.

This instruction was recently given by U.S. District Judge Sam Sparks in the case of United States v. Charles Thomas Clayton, Case No. 1:06-cr-00069-SS-1, pending in the U.S. District Court for the Western District of Texas in Austin (Doc. #54).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 36

NOT KNOW LAW

In this case, the defendant is not presumed to know the law. For any law the government asserts the defendant knew, the government must prove beyond a reasonable doubt that the defendant knew it.

See *Ratzlaf v. United States*, 510 U.S. 135, 114 S.Ct. 655 (1994); *United States v. Alt*, 996 F.2d 827 (6th Cir. 1993); and *United States v. Rogers*, 18 F.3d 265 (4th Cir. 1994).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 37

**DISAGREEMENT WITH THE LAW AND
BELIEF THAT LAW IS UNCONSTITUTIONAL
DEFINED**

To find that the defendant had a "disagreement with the law" that would be evidence of the defendant acting willfully, you the jury must find that he knew that the federal income tax laws imposed a tax on ^{her} his income and he consequently owed such taxes and was required to file tax returns.

To find that the defendant believed that the federal income tax laws were unconstitutional and thus show that the defendant was acting willfully, you the jury must find that he knew that the federal income tax laws imposed a tax on ^{her} his income and he consequently owed such taxes and was required to file tax returns.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 38

THEORY OF DEFENSE

If you find that the defendant believed in good faith that for the year ²⁰⁰³⁻²⁰⁰⁶ ~~2000~~ ^{her} ~~his~~ ^{her} income was not taxable, it shall be your duty to acquit ^{her} ~~him~~ for count ¹⁻⁴ ~~1~~ of the indictment.

If you find that the defendant believed in good faith that for the year ²⁰⁰³⁻²⁰⁰⁶ ~~2001~~ ^{her} ~~his~~ ^{her} income was not taxable, it shall be your duty to acquit ^{her} ~~him~~ for count ⁵⁻⁸ ~~2~~ of the indictment.

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 39

PROTECTED SPEECH

The First Amendment to the United States Constitution prohibits the government from punishing speech, even speech that advocates unlawful conduct, unless that speech is directed to inciting or producing imminent lawless action and is likely to incite or produce such action. "Imminent lawless action" means violence or physical disorder in the nature of a riot. Included within this right of free speech is the right to send letters to public officials and employees asking questions.

See *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969); *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 928 (1982), *Noto v. United States*, 367 U.S. 290 291, (1961), *Yates v. United States*, 354 U.S. 298, 318 (1957); *Hess v. Indiana*, 414 U.S. 105, 108-09 (1973); *White v. Lee*, 227 F. 3d 1214 (9th Cir. 2000).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 40

PETITION FOR REDRESS OF GRIEVANCES

The right to petition the government extends to all departments of the government, including the executive department, the legislature, agencies, and the courts.

See *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972); *White v. Lee*, 227 F. 3d 1214 (9th Cir. 2000).

DEFENDANT'S REQUESTED JURY INSTRUCTION NO. 41

GOOD FAITH RELIANCE UPON ADVICE OF COUNSEL

Good faith is a complete defense to the charges in the indictment since good faith on the part of the Defendant is inconsistent with the existence of willfulness which is an essential part of the charge. The burden of proof is not on the Defendant to prove good faith, of course, since the Defendant has no burden to prove anything. The Government must establish beyond a reasonable doubt that the Defendant acted willfully as charged in the indictment.

So, a Defendant would not be "willfully" doing wrong if, before taking any action with regard to the alleged offense, the Defendant consulted in good faith an attorney whom the Defendant considered competent, made a full and accurate report to that attorney of all material facts of which the Defendant had the means of knowledge, and then acted strictly in accordance with the advice given by that attorney.

Whether the Defendant acted in good faith for the purpose of seeking advice concerning questions about which the Defendant was in doubt, and whether the Defendant made a full and complete report to the attorney, and whether the Defendant acted strictly in accordance with the advice received, are all questions for you to determine.

Eleventh Circuit Pattern Criminal Jury Instructions, Special Instruction 18 (2003). See *United States v. Eisenstein*, 731 F.2d 1540, 1544 (11th Cir. 1984).

Notes:

Under certain circumstances reliance on a qualified tax preparer is an affirmative defense to a charge of willful filing of a false tax return. *United States v. Charroux*, 3 F.3d 827, 831 (5th Cir. 1993); *United States v. Wilson*, 887 F.2d 69, 73 (5th Cir. 1989). See also *United States v. Masat*, 948 F.2d 923, 930 (5th Cir. 1991), *cert. denied*, 113 S.Ct. 108 (1992) (to establish reliance as a defense, defendant must show that (1) he relied in good faith on a professional and (2) he made complete disclosures of all the relevant facts).