WHERE DOES INCOME COME FROM ?

In addressing the issue of precisely what the 16th Amendment authorized, and what the federal "*income tax* " legislation, that was enacted and tested and upheld by the Court in 1916, actually taxed, the Court states in *Bowers v. Kerbaugh-Empire Co.*, 271 U.S. 170 (1926), on page 174:

> "The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, 'from whatever source derived' without apportionment among the several states, and without regard to any census or enumeration. **It was not the purpose or effect of that amendment to bring any new subject within the taxing power**. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be 'direct taxes' within the meaning of the constitutional requirement as to apportionment. Art. 1, 2, cl. 3, 9, cl. 4; *Pollock v. Farmers' Loan & Trust Co*., 158 U.S. 601 , 15 S. Ct. 912. The Amendment relieved from that requirement and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes 'from whatever source derived.' *Brushaber v. Union Pac. R. R.*, 240 U.S. 1, 17 , 36 S. Ct. 236, 241 (60 L. Ed. 493, L. R. A. 1917D, 414, Ann. Cas. 1917B, 713). **'Income' has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909** (36 Stat. 112), in the Sixteenth Amendment, and in the various revenue acts subsequently passed. *Southern Pacific Co. v. Lowe*, 247 U.S. 330, 335 , 38 S. Ct. 540; *Merchants' L. & T. Co. v. Smietanka*, 255 U.S. 509, 219 , 41 S. Ct. 386, 15 A. L. R. 1305. After full consideration, this court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. *Stratton's Independence v. Howbert*, 231 U.S. 399, 415 , 34 S. Ct. 136; *Doyle v. Mitchell Brothers Co*., 247 U.S. 179, 185 , 38 S. Ct. 467; *Eisner v. Macomber*, 252 U.S. 189, 207 , 40 S. Ct. 189, 9 A. L. R. 1570. And that definition has been adhered to and applied repeatedly. See, e. g., *Merchants' L. & T. Co. v. Smietanka*, supra, 518 (41 S. Ct. 386); *Goodrich v. Edwards*, 255 U.S. 527, 535 , 41 S. Ct. 390; *United States v. Phellis*, 257 U.S. 156, 169 , 42 S. Ct. 63; *Miles v. Safe Deposit Co.*, 259 U.S. 247, 252 , 253 S., 42 S. Ct. 483; *United States v. Supplee-Biddle Co*., 265 U.S. 189, 194 , 44 S. Ct. 546; *Irwin v. Gavit*, 268 U.S. 161, 167, 45 S. Ct. 475; *Edwards v. Cuba Railroad*, 268 U.S. 628, 633 , 45 S. Ct. 614. In determining what constitutes income substance rather than form is to be given controlling weight. *Eisner v. Macomber*, supra, 206 (40 S. Ct. 189)."

The statement that "*Congress already had power to tax all incomes*" would seem to be contradicted by the fact that the Supreme Court declared a personal federal income tax on the

income of individuals **to be unconstitutional** in 1895**,** as is noted by the court, in the *Pollock v. Farmer's Loan & Trust Co*. 157 U.S. 429 (1895). So, why did the court declare this?

The key to understanding the court's statement, of course, is provided in the next sentence of the decision, where it is clearly stated that: " '*Income*' ***has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909,*".**

So let's examine the Corporate Tax Act of 1909 (36 Stat. 11, 112). It states:

> "That every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares ... now or hereafter organized under the laws of the United State or of any State ... shall be subject to pay annually a special excise tax with respect to carrying on or doing business by such corporation ... equivalent to one per centum on the entire net income over and above five thousand dollars received by it from all sources during such year...."

The Corporate Tax Act of 1909 (36 Stat. 11, 112) **imposed an indirect excise tax on corporations**, imposed on the **privilege of doing business in corporate form, and to be measured by the amount of corporate income (gains and profits) earned in the taxable period (year) by the corporation**. Black's Law Dictionary defines an excise as:

> **Excise taxes** are taxes "laid upon **the manufacture, sale or consumption of commodities** within the country, **upon licenses to pursue certain occupations**, and **upon corporate privileges**." *Flint v. Stone Tracy Co.,* 220 U.S. 107, 31 S.Ct. 342, 349 (1911); or **a tax on <u>privileges</u>, syn. "privilege tax"**.
>
> (emphasis added)

The Supreme Court case specifically referenced by Black's, has provided a clear and definite scope of the excise taxing authority. In *Flint v. Stone Tracy Co*., 220 U.S. 107 (1911)1[1], the Supreme Court held that:

> "Duties and imposts are terms commonly applied to levies made by governments on the importation or exportation of commodities. **Excises are "taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges** ... ***the requirement to pay such taxes involves the exercise of the privilege*** *and if business is not done in the manner described* ***no tax is payable...it is the privilege***

1[1] Again, *Flint v. Stone Tracy Co*. is controlling and Constitutional law, having been cited and followed over 600 times by virtually every c

which is the subject of the tax *and not the mere buying, selling or handling of goods.* " Cooley, Const. Lim., 7th ed., 680." *Flint*, supra, at 151

(emphasis added)

The Corporate Tax Act of 1909 provided that the excise tax laid on the corporate business, was to be measured by the corporate income. **The 1909 act defined the corporate tax as an excise tax and therefore it is an "indirect" tax under Article I, Section 8, Clause 1, granting Congress the power to "…lay and collect taxes, duties, imposts and excises,…**". Indirect taxes such as an excise are not subject to the rule of apportionment that direct taxes are subject to.

However, **no citizen is subject to any excise tax on their private activity that is measured by income, because citizens, under the *Flint v. Stone Tracy Co* decision are not subject to any excise tax unless they hold some license, or engage in the manufacture, consumption or sale of commodities, or operate as a corporation rather than as an individual.**

As the court noted in *U.S. v. Ballard* 535 F.2d 400 at page 404, the word "income" is not actually defined in the Internal Revenue Code. However, the Supreme Court has consistently defined it in a number of cases. In *Stratton's Independence v. Howbert*, 231 U.S. 399 (1913), the court wrote:

> "As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and **is not, in any proper sense, an income tax law**. This court has decided in the *Pollock* Case that the income tax of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to population, as prescribed by the Constitution. The act of 1909 avoided this difficulty **by imposing not an income tax, but an excise tax** upon the conduct of business in a corporate capacity, **measuring,** however, the amount of tax by the income of the corporation, . . ."

The Supreme Court identifies that the constitutional justification for the corporate "income tax", is as an indirect excise tax *"imposed with respect to the doing of business in corporate form"*, just as it has been defined under *Flint* two years earlier.

> "Evidently Congress adopted the income as the measure of the tax to be imposed **with respect to the doing of business in corporate form** because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In *Flint v. Stone Tracy Co*. 220 U.S. 107, 165 , 55 S. L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax **a legitimate subject of taxation** as a franchise or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable. It was reasonable that Congress should fix

upon gross income, without distinction as to source, as a convenient and sufficiently accurate index of the importance of the business transacted." *Stratton's Independence, Ltd. V. Howbert,* 231 U.S. 399, at 416 – 417 (1913)

The above case applied to a corporation and its corporate income, so if you are not a corporation, then the Corporation Excise tax on income does not apply to you. **The important thing here is the clarification that the income tax is upheld as a constitutional indirect excise tax, imposed upon the doing of business in corporate form. It is not upheld as a direct tax on all earnings, or even on all income of the citizens.**

And he Supreme Court tells us again in *Eisner vs. Macomber*, 252 U.S. 189 (1920), on page 205, that:

"The Sixteenth Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted. In *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601 , 15 Sup. Ct. 912, under the Act of August 27, 1894 (28 Stat. 509, 553, c. 349, 27), it was held that taxes upon rents and profits of real estate and upon returns from investments of personal property were in effect direct taxes upon the property from which such income arose, imposed by reason of ownership; and that Congress could not impose such taxes without apportioning them among the states according to population, as required by article 1, 2, cl. 3, and section 9, cl. 4, of the original Constitution.

Afterwards, and evidently in recognition of the limitation upon the taxing power of Congress thus determined, the Sixteenth Amendment was adopted, in words lucidly expressing the object to be accomplished:

> '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.'

As repeatedly held, **this did not extend the taxing power to new subjects**, but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income. Brushaber v. Union Pacific R. R. Co., 240 U.S. 1 , 17-19, 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; Stanton v. Baltic Mining Co., 240 U.S. 103 , 112 et seq., 36 Sup. Ct. 278; Peck & Co. v. Lowe, 247 U.S. 165, 172 , 173 S., 38 Sup. Ct. 432.

After examining dictionaries in common use (Bouv. L. D.; Standard Dict.; Webster's Internat. Dict.; Century Dict.), we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (*Stratton's Independence v. Howbert*, 231 U.S. 399, 415 , 34 S. Sup. Ct. 136, 140 [58 L. Ed. 285]; *Doyle v. Mitchell Bros. Co*., 247 U.S. 179, 185 , 38 S. Sup. Ct. 467, 469 [62 L. Ed. 1054]), 'Income may be defined as the gain derived from capital, from labor, or from both combined,' provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the *Doyle* Case, 247 U.S. 183, 185 , 38 S. Sup. Ct. 467, 469 (62 L. Ed. 1054).

> Brief as it is, it indicates the characteristic and distinguishing attribute of income essential for a correct solution of the present controversy. The government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word 'gain,' which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. 'Derived-from-capital'; 'the gain-derived-from-capital,' etc. Here we have the essential matter: not a gain accruing to capital; not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being 'derived'-that is, received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal- that is income derived from property. Nothing else answers the description." *Eisner vs. Macomber*, 252 U.S. 189, 205 - 206 (1920).

But these decisions all are addressing the income of a corporation, which, under *Flin*t *v Stone Tracy Co.*, supra, is indirectly taxable to the government through the imposition of an excise tax. **But citizens are not subject to any excise,** and cannot be legitimately brought under the purview of any excise under the pretense of having allegedly earned "income"**.** As we will see, **IT IS ONLY THE INCOME OF THE CORPORATIONS THAT IS SUBJECT TO THE EXCISE, and only other INDIRECTLY TAXABLE earnings** under Article I, Section 8, Clause 1 **that are subject to the federal personal income tax !**

Clearly, while the definition of income may mean a "gain derived from capital, from labor, or from both combined, provided it be understood to include profit gained through a sale or conversion of capital assets", it also **has inherent within it the understanding that the gain or profit has been created through and realized from a specific activity or subject made taxable to the federal government under Article 1, Section 8, Clause 1, of the Constitution, subject to imposts, duties or excises.**

But how would this same definition of "income" be made applicable to the individual citizen who is not deriving earnings from any excise taxable activity that is made subject to any indirect tax, but is merely exercising his or her right to an occupation of common law right, without government license or incorporation being involved?

In *Merchants' Loan & Trust Co. v. Smietanka*, 255 U.S. 509 (1921)

> "It is obvious that these decisions in principle rule the case at bar if the word "income" has the same meaning in the Income Tax Act of 1913 that it had in the Corporation Excise Tax Act of 1909, and that it has the same scope of meaning was in effect decided in *Southern Pacific Co. v. Lowe* 247 U.S. 330, 335, where it was assumed for the purposes of decision that there was no difference in its meaning as used in the act of 1909 and in the Income Tax Act of 1913. There can be no doubt that the word must be given the same meaning and content in the Income Tax Acts of 1916 and 1917 that it had in the act of 1913. When to this we

> add that in *Eisner v. Macomber*, supra, a case arising under the same Income Tax Act of 1916 which is here involved, the definition of "income" which was applied was adopted from *Strattons' Independence v. Howbert*, arising under the Corporation Excise Tax Act of 1909, with the addition that it should include "profit gained through sale or conversion of capital assets," there would seem to be no room to doubt that **the word must be given the same meaning in all the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act**, and that what that meaning is has now become definitely settled by decisions of this Court."

In *Southern Pac Co. V. Lowe* , 247 U.S. 330 (1918), the court noted:

> **We must reject** in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 *(Doyle, Collector, v. Mitchell Brothers Co.,* 247 U.S. 179 , 38 Sup. Ct. 467, 62 L. Ed. --, and *Hays, Collector, v. Gauley Mountain Coal Co*., 247 U.S. 189 , 38 Sup. Ct. 470, 62 L. Ed. --, decided May 20, 1918), **the broad content submitted in behalf of the government that all receipts-everything that comes in-are income within the proper definition** of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. **Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909** (see *Stratton's Independence v. Howbert*, 231 U.S. 399, 416 , 417 S., 34 Sup. Ct. 136), and for the present purpose we assume there is no difference in its meaning as used in the two acts.

The word "income" has the same meaning in ALL the income tax acts of Congress. That meaning being **a realized gain or profit** (on or from capital, labor or assets) **EARNED BY A TAXABLE SUBJECT of the federal government**. Corporations, trusts and foreign "*persons*" (both non-resident alien individuals and foreign corporations), **are all legitimate taxable subjects of the federal government**.

American Citizens are not the taxable subjects of the federal government as it is well known that the power to tax is the power to destroy, and under a dejure application of all of the provisions of the United States Constitution, the federal government does not legitimately possess a lawful power to destroy the Sovereign American People, whom it is tasked with the duty of representing, and over whom it is never given the power to destroy, as it would be obviously ridiculous for the representative to be empowered to destroy those whom it represents.

The Supreme Court has also ruled in *Eisner vs. Macomber,* 252 U.S. 189 pg 205 (1920):

> " **The Sixteenth Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted.** In *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601 , 15 Sup. Ct. 912, under the Act of August 27, 1894 (28 Stat. 509, 553, c. 349, 27), it was held that taxes upon rents and profits of real estate and upon returns from investments of personal property were in effect direct taxes upon the

property from which such income arose, imposed by reason of ownership; and that Congress could not impose such taxes without apportioning them among the states according to population, as required by article 1, 2, cl. 3, and section 9, cl. 4, of the original Constitution.

Afterwards, and evidently in recognition of the limitation upon the taxing power of Congress thus determined, the Sixteenth Amendment was adopted, in words lucidly expressing the object to be accomplished:

> '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.'

As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income. *Brushaber v. Union Pacific R. R. Co*., 240 U.S. 1 , 17-19, 36 Sup. Ct. 236, Ann. Cas. 1917B, 713, L. R. A. 1917D, 414; *Stanton v. Baltic Mining Co*., 240 U.S. 103 , 112 et seq., 36 Sup. Ct. 278; *Peck & Co. v. Lowe,* 247 U.S. 165, 172 , 173 S., 38 Sup. Ct. 432.

The Supreme Court has plainly stated that an individual's earnings cannot be taxed directly: but an individual's income CAN be taxed if it was derived from an activity that is taxable to the federal government in an indirect manner through the enacted imposition of legislation imposing either a duty, an impost or an excise.

In *Stratton's Independence v. Howbert,* 231 U.S. 399 (1913), the court stated:

> " As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the *Pollock* Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. **The act of 1909 avoided this difficulty by imposing not an income tax, but an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation,** with certain qualifications prescribed by the act itself. *Flint v. Stone Tracy Co.* 220 U.S. 107 , 55 L. ed. 389, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B, 1312; *McCoach v. Minehill* & S. H. R. Co. 228 U.S. 295 , 57 L. ed. 842, 33 Sup. Ct. Rep. 419; *United States v. Whitridge* (decided at this term, 231 U.S. 144 , 58 L. ed. --, 34 Sup. Ct. Rep. 24.

This meaning of income, as used in the 16th Amendment and in all of the taxing statutes in title 26, is confirmed by a number of Supreme Court decisions, which have never been reversed or repealed. The 1921 Supreme Court decision of *Merchant's Loan & Trust Co v. Smietanka,* 255 U.S. 509, could not have not said it more clearly when it held on pages 518-519:

> "The word (income) must be given the same meaning in all of the Income Tax Acts of Congress that was given to it in the Corporation Excise Tax Act (of 1909) and that what that meaning is has now become definitely settled by decisions of this court."

Therefore the meaning of "income" in our revenue laws means a corporate profit as is clearly stated in the above decision and as confirmed in the following five other Supreme Court decisions.

> "Certainly the term "income" has no broader meaning in the 1913 Act than in that of 1909 (See *Stratton's Independence v. Howbert*, 231 U.S. 399, 416, 417), and for the present purpose we assume *there is no difference in its meaning as used in the two acts. Southern Pacific v. Lowe*, 247 U.S. 330 (1918)
>
> (Emphasis added)

> And before the 1921 Act this Court has indicated (see *Eisner v. Macomber*, 252 U.S. 189, 207), what it later held, that "income," as used in the revenue acts taxing income, adopted since the Sixteenth Amendment, **has the *same meaning* that it had in the Act of 1909**. *Merchant's Loan &Y Trust Co. v. Smientanka*, 255 U.S 509, 519; see *Southern Pacific Co. v. Lowe*, 247 U.S. 330, 335 *Burnet v. Harmel*, 287 U.S.103, (1932)
>
> "Whatever difficulty there may be about a precise and scientific definition of 'income,' it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; conveying rather the idea of gain or increase **ARISING FROM CORPORATE ACTIVITIES**. As was said in *Stratton's Independence v. Howbert*, 231 U.S. 399, 415 , 34 S. Sup. Ct. 136: 'Income may be defined as the gain derived from capital, from labor, or from both combined.'" *Doyle v. Mitchell Bros.*, 247 U.S. 179, (1918)
>
> (Emphasis & capitalization added)

Therefore, there can be no doubt that "income" within the meaning of these decisions means gain or profit **"arising from corporate activities."** Therefore, "corporate profit" and

“income” in the “constitutional sense” both represent the same thing, and only mean income on earnings derived from the federal jurisdiction to tax indirectly, as authorized under Article I, Section 8, Clause 1.

However, as explained in the *Stratton’s* decision, the 1909 tax on corporate income was imposed as an “excise” tax on the granted “privilege” of operating as a corporation. The individual however, not enjoying any federal privilege (like incorporation) is not subject, or subjected to, any excise tax imposed on his earnings in a direct manner, or removed from federal subjectivity under Article I, Section 8, Clause 1.

> "The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to incriminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights." *Hale v. Henkel*, 201 US 43.

A person’s possessions obviously include the money and assets in his possession, as well as the fruits of one’s own labor. The court has also ruled that a man’s labor is inviolable and is a guaranteed right.

> "The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same age, sex, and condition, is a distinguishing privilege of Citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that ‘the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman and of those who might be disposed to employ him." *Butcher’s Union Co. v. Crescent City Co.*, 111 US 746.

"That the right to conduct a lawful business, and thereby acquire pecuniary profits, is property, is indisputable." *Truax v. Corrigan*, 257 US 312, 348.

"A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution." *Murdock V. Commonwealth of Pennsylvania*, 319 US 105, 113.

"A "privilege" is whatever business, pursuit, occupation, or vocation effecting the public, the legislature chooses to declare and tax as such." *Corn v. Fort*, 95 S.W. 2d, 620.

"…but legislature cannot name something to be a taxable privilege unless it is first a privilege." "Right to receive income or earnings is right belonging to every person, and realization and receipt of income is therefore not a "privilege" that can be taxed." *Jack Cole Company v. MacFarland*, 337 S.W. 2d 453.

"[9] The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individuals' rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed." *Redfield v. Fisher*. 292 P. 819.

"Right to earn a living is an inalienable right guaranteed by the Bill of Rights of the constitution." *City of Louisville et al. v. Sebree*, 214 S.W. 2d 248.

"Evidently Congress adopted the income tax as the measure of the tax to be imposed with respect to the doing of business in corporate form because it desired that the excise should be imposed, approximately at least, with regard to the amount of benefit presumably derived by such corporations from the current operations of the government. In *Flint v. Stone Tracy Co.* 220 U.S. 107, 165, 55 S.L. ed. 107, 419, 31 Sup. Ct. Rep. 342, Ann. Cas. 1912 B. 1312, it was held that Congress, in exercising the right to tax a legitimate subject of taxation as a franchise or privilege, was not debarred by the Constitution from measuring the taxation by the total income, although derived in part from property which, considered by itself, was not taxable." *Stratton's Independence, Ltd. V. Howbert*, 231 U.S. 399, 417.

There is no longer any doubt that personal property, including a citizen's labor and *wages*, have never been legitimately considered constitutionally taxable to the federal government, nor has it ever been declared such by the Supreme Court of the United States, which has repeatedly and consistently rejected those arguments when presented in disputes.

Again, here is what the Court said in *Stratton's Independence, Ltd. V. Howbert*, supra :

"As has been repeatedly remarked, the corporation tax act of 1909 was not intended to be and is not, in any proper sense, an income tax law. This court had decided in the *Pollock* Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to

> populations, as prescribed by the constitution. The act of 1909 avoided this difficulty by imposing **not an income tax,** but **an excise tax** upon the **conduct of business in a corporate capacity**, measuring, however, the amount of tax by the income of the corporation."

The important and key phrase to take note of is "**upon the conduct of business in a corporate capacity**". The court is clearly consistently saying in all of these cases that (1) corporate income taxes are not really taxes upon the corporation's income, but are an excise tax that is measured by the size of the corporation's income derived from earnings.

But **citizens are not subject to the payment of any excise taxes on earnings** derived from an exercise of their right to work at a common law occupation. So, the only places that federally taxable "*income*" can come from, are from within the true, constitutionally provided, federal jurisdictions, both territorial and subject matter as authorized under Article 1 Section 8, Clause 1, to tax indirectly in the form of imposts, duties and excises. **No earnings derived outside of these federal jurisdictions is taxable *income* to the federal government, as "*the 16th Amendment conferred no new power of taxation*"** (*see Stanton v. Baltic Mining Co.,* 240 US 103, 112 (1916)), and "***It was not the purpose or effect of that amendment to bring any new subject within the taxing power***" (*see Bowers v. Kerbaugh-Empire Co*, supra), **and citizens were not taxable subject of the federal government before** the adoption of the 16th Amendment**, and therefore THEY ARE NOT NOW.**