

Escape Conviction when Prosecuted for a Federal Tax Crime

Court, DOJ, IRS no jurisdiction without specific Section of Title 26 quoted

Why, in a "Federal District Court" when charged with a "tax crime" are you never allowed to speak of the "law" that identifies "a tax imposed by this title" which created the obligation with which you failed to comply, which created the liability for which you are now being punished?

A better question:

Why doesn't the prosecution ever speak about it in the complaint or in open court?

As a defendant in a "criminal tax" case, you are not the complaining party, so what you say the law is can only infringe on the exclusive authority of the Court. The prosecutor is the one who tells the Court what the law of the case is and, it is the prosecutor who is the one moving under "presumption of law" because, the judge can not allow "facts" based in "law" regarding the Internal Revenue Code and, your "presumed" liability, to be presented to him in a complaint or, reach the jury, by a complaint, through the Court. If he does and, then allows the case to proceed, he has taken jurisdiction over a "**non-cognizable**" claim. If the prosecutor is forced, to identify in his complaint, the "law" that makes you liable for the "income tax" he is claiming you "didn't pay" (he never actually says you "owe" it), the court will have to dismiss the case for: **Lack of Jurisdiction or, Failure to State a Claim Upon Which Relief May be Granted.**

Why? Because of the Anti-Injunction Act and the Declaratory Judgment Act. According to these two Acts of Congress (who established the inferior courts) you have **no defense (no suit)** against an assessment or collection of **any tax in any court** and, **no remedy in any court of the United States** (for **Federal taxes**) because it is not **cognizable** as **a case of actual controversy** within that court's jurisdiction. The federal District Courts have no jurisdiction to hear the matter and, for that reason, anyone (INCLUDING THE PROSECUTOR) who brings a claim based on "**internal revenue**" has brought a claim on which the court cannot grant relief.

But, you say, then why are people being prosecuted in these courts, on charges involving internal revenue? People like Lynn Merideth and Simkanen? Because they made assertive claims and, affirmative defenses, based on what they perceived the law to be or, made judgments regarding the law and, its application to them. If that issue is to be judicially ruled on, that is the Court's job, not yours.

But there are two notable acquittals, after standing trial. Whitey Harrell in Illinois (State case) and, Venice Kuglin in Tennessee (Federal case). Why were they acquitted? Because they did not try to tell the court, what the law was, but put on a **Good Faith Belief defense that they had not violated a Known Legal Duty.** And, it was this known legal duty, which the prosecutors (in both cases) did not identify to the Court in their complaints or in open court and, the judges (in both cases) would not identify to the jury, when they requested it.

If genuine, this type of defense first accomplishes, primarily two things:

- (1) It maintains your presumption of innocence; and
- (2) It keeps the burden of proof on the prosecutor.

Will the prosecutor ever tell the Court what provision of the internal revenue code, imposed the “legal duty” on you to pay a personal federal individual income tax? No. Because if he does, he will have stated a claim on which the court cannot grant relief and, the judge will have to dismiss the case on that basis or, for lack of jurisdiction. Will the judge ever identify to the jury, the known legal duty? No. Because, that known legal duty is never actually presented to him in the complaint or, in open court. If the judge has never been presented with the “full” law of the case, by the prosecution, he can not give it to a jury, even if they request it. And, since you are not the complaining party, you are not authorized to do it either.

Bottom line is: In a criminal indictment, based on violations of the Internal Revenue Code, relative to personal federal individual income tax, the indictment **has not actually charged you with “ANY” crime.**

Both the prosecutor and the judge know this. That is why they will never identify the law that “made you liable” but the prosecution will move only on an “implied presumption” of:

1. A known legal duty (generally referred to as the Internal Revenue Code);
2. That created a known obligation (which is implied that everyone knows);
3. With which you have failed to comply (by not reporting all income on an IRS Form);
4. A presumption of guilt for that non-compliance;
5. And, based on those presumptions, they seek to punish you under the criminal provisions of the Internal Revenue Code, without citing the taxing provision violated.

See the following:

Anti-Injunction Act

TITLE 26 Subtitle F CHAPTER 76 Subchapter B

Sec. 7421. Prohibition of suits to restrain assessment or collection.

(a) Tax

Except as provided in sections 6015 (e), 6212 (a) and (c), 6213 (a), 6225(b), 6246 (b), 6330 (e)(1), 6331 (i), 6672 (c), 6694 (c), and 7426 (a) and (b)(1), 7429 (b), and 7436, **no suit for the purpose of restraining the assessment or collection** of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

(b) Liability of transferee or fiduciary

No suit shall be maintained in any court **for the purpose of restraining the assessment or collection** (pursuant to the provisions of chapter 71)

of—

- (1)** the amount of the liability, at law or in equity, of a transferee of property of a taxpayer in respect of any internal revenue tax, or
- (2)** the amount of the liability of a fiduciary under section 3713 (b) of title 31, United States Code [1] in respect of any such tax.

Declaratory Judgment Act

TITLE 28 PART VI CHAPTER 151

§ 2201. Creation of remedy

(a) In a **case of actual controversy** within its jurisdiction, **except with respect to Federal taxes** other than actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, **any court of the United States**, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

(b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food, Drug, and Cosmetic Act.

When you read this Act backwards it says:

“...any court of the united states, with respect to federal taxes (except for those matters listed as exceptions) lacks jurisdiction, because it has not been presented with an actual case or controversy.”

In other words, failure to state a claim upon which relief may be granted.

So, what do they do? They stack some criminal charges under Title 18 U.S.C (Criminal Code) in the first count(s) to try and usurp jurisdiction. But those criminal charges are also premised on the implied presumptions of violations of the Internal Revenue Code, listed above.

If you will read the USAM Title 6 and Title 9, you will see that both the IRS - Tax Division and, the United States Attorney - Department of Justice, are fully aware that the “legislative intent” of Congress is that all “tax crimes” be charged as “tax crimes” and that all “tax crimes” be punished under the **criminal provisions of the Internal Revenue Code**. You will also see that the Tax Division retains exclusive approval authority to bring criminal charges under Title 18 (i.e., Mail, Wire, and Bank fraud) “in addition to” but NEVER “in lieu of” a “tax crime” and, that approval will be issued only in rare cases. (They don’t say what those rare cases are.) I strongly suspect it depends largely on the quality of representation by defense counsel or, if the poor fool is representing pro se.

In a criminal tax case, unless the prosecutor presents to the Court, in his complaint or, in open court, the **known legal duty** that the named defendant has actually violated in relation to the Internal Revenue Code, there can be no “in addition to” criminal acts, to be punished by the criminal provisions of the federal criminal code (Title 18) and, there is no lawful basis (i.e., violations of a “taxing provision” of the Internal Revenue Code) for “triggering” the criminal sanctions under the criminal provisions of the Internal Revenue Code.

Complaints, petitions, pleadings and papers must be filed in a court with **the authority** to adjudicate the issues and **grant the relief requested**. **Most purported precedents, habitually used in the federal system, are not valid.** Why?

Because most cases quoted by US Attorney's, can best be identified as, **summary decisions**.

Summary decisions are those cases, which were dismissed **because the court lacked either jurisdiction, or the authority to grant the relief requested.** .

The case was dismissed **without adjudication of the complaint**. Rather, the court ruled on the **affirmative defense motion** known as a **Lack of Jurisdiction** or **Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted**. Remember, the court must have authority to determine the issues and grant the relief. If the court lacks the authority to do either, it doesn't have cognizance of the matter. In these cases the court only possessed sufficient **authority to determine its jurisdiction and/or authority**, which was **to rule on the motion before it**.

Absent a specific waiver for the action presented, (i.e., the listed exceptions) **all litigation regarding internal revenue matters is outside the purview of the court**, because of the exclusionary aspects of the Declaratory Judgment (28 USC §2201) and Anti-Injunction (26 USC §7421) Acts. The dismissal occurs because the **facts cannot be litigated in this court**. Therefore **the legal question is all that is resolved**.

What legal question? Can the complaint be litigated in light of the law? **No.**

Motion to Dismiss for Lack of Jurisdiction **and/or Motion to Dismiss for Failure to State a Claim Upon Which Relief May be Granted**

The foundational basis for your Motion to Dismiss is:

“I do not believe I have violated a known legal duty. (i.e., Lawful Obligation Imposed Under the Internal Revenue Code.)

And, the government has only generally implied by presumption of law, that you have violated a **“known legal duty” imposed by this title** (which is what the criminal sanctions are premised on) but nowhere, cites, references or, otherwise identifies, the specific provision of the Internal Revenue Code that imposed that legal duty, by or under **this title.**” (i.e., Internal Revenue Code)

This defense:

1. Maintains your presumption of innocence;
2. Establishes reasonable doubt;
3. Keeps the burden of proof on the prosecutor;
4. Negates willfulness;
5. Which is an essential element of the crime of which the judge must instruct the jury that must be proven beyond a reasonable doubt, before guilt can attach, when charged with fraud;
6. And, essentially snatches conviction by the jury, from the hands of the prosecutor;
7. Before the case ever goes to trial.

But, if you want to take an affirmative defense that asserts your in depth knowledge of the law and, how it cannot possibly apply to you, your studied conclusions of law and, legal conclusions exhibit a conscious decision based on your belief that the law is unconstitutional (which is an infringement on the exclusive authority of the Court) or, that the federal government has no jurisdiction over you (which is totally asinine) and, will get you convicted, because you are making frivolous arguments or, didn't meet your burden of proof and, the prosecutor wins without ever having to prove his case, which was based on implied presumptions of law, which you relieved him from having to prove. He charged you, waited for your frivolous arguments and, with you as a willing accomplice, stole your presumption of innocence and, with your assistance, sealed your conviction, by "summary judgment" meaning, the merits of the prosecutions claims were "never adjudicated" because you unwittingly acquiesced. Which also means that case should never be allowed to be cited as precedent, because the merits of the complaint were never adjudicated?

SUMMARY

1. Your presumption of innocence in a criminal case is a matter of law, not fact and, you do not have to prove your innocence. The judge is obliged to so instruct the jury.
2. Because of this presumption of innocence, in a criminal case, you cannot be forced to testify, at trial. The judge is obliged to instruct the jury of that fact and, that they are not to draw any inference of guilt, because you elect not to testify.
3. The prosecution, in a criminal tax case is moving under a "presumption of law" and, has the burden of proving their presumption. Do not relieve the prosecution of that burden.
4. The federal courts, pursuant to the Anti-Injunction Act and, the Declaratory Judgment Act, (with few exceptions) cannot take cognizance of issues involving federal taxes. Both the judge and the prosecutor are fully aware of this.
5. When charged with a "tax crime" if you take the bait and, start trying to prove "anything" you have the burden of proof relative to your affirmative claims. From that point forward, the prosecutions presumptions are presumed valid (meaning you have acquiesced) and, the judge will focus the case on your burden of proof relative to your claims.
6. This strategy will result in your conviction, without the prosecution ever having to prove their presumptions.
7. A Good Faith Belief defense, that you have not violated any "Known Legal Duty" imposed by this title or, any other law, preserves your presumption of innocence and, keeps the burden of proof on the prosecution, to prove their presumptions of law and, your knowledge of that law, beyond a reasonable doubt and, failing to do so, "willfulness" is negated, which means acquittal.
8. In order to testify before the jury, at trial, in support of your Good faith Belief defense (which brings the law and facts on which you relied to the jury) and not be subjected to cross examination by the prosecutor on the merits of his attempt to "prosecute by presumption" (which he wouldn't dare question you on, except to try to discredit you) you will stipulate (without making admissions of guilt) to certain matters of his so-called evidence, so it doesn't have to be addressed. (Matters such as name, employment, income, expenditures, etc.)
9. This limits your testimony and, greatly limits any cross examination on your testimony, to the issues of your defense, which is not an affirmative defense of assertive claims relative to the prosecutions presumptions of law, but rather your Good Faith Belief that you have not violated any

Known Legal Duty, which keeps the burden on the prosecution to show the court and, the jury, the law he has presumed you violated and, prove, beyond a reasonable doubt, that you knew that law existed and, applied to you. Which he will never do, because he would first have to declare the law, to the Court, which would then mean he has stated a claim to the Court, of which the Court does not have authority to take **cognizance** and, on which relief may not be granted.

10. Establishing this scenario, by the selection of your defense strategy of a Good Faith Belief defense, **before trial**, puts the prosecution on notice that they may be placed in a no-win situation. Which, now could, result in the withdrawal of the charges or, a mutually beneficial settlement, rather than the prosecution risking acquittal by the jury and facing lawsuits for damages or, reversal on appeal, which would establish an adverse legal precedent and, bring lawsuits for damages.

11. Typically, in a "tax crime" case, the prosecution brings their charges, then simply steps back and waits for the typical waiver of the presumption of innocence, by the affirmative and assertive frivolous arguments to hit the record of the case by long-winded Motions, which refocuses the case to the defendants claims, relieves the prosecution of their burden of proof because now it is presumed their presumptions are valid, then by a Motion for "summary judgment" granted by the Court, get their conviction, without ever having to prove the presumptions of their claim and, relieves the Court of having to preside over a case which the Court is not authorized to take **cognizance**.

12. You walked in, wrapped in the Constitution and the Flag, made assertive claims and demanded to be heard. The Court does have authority to take cognizance of your claim and, did nothing wrong in providing a forum for you to convict yourself.

13. Fools rush in, where angels fear to tread. Don't be a fool!