

## ILLEGAL TAX PROTESTERS

Illegal tax protest movements have been around for decades, springing up in different areas of the country and in a variety of forms. These groups and/or individuals, known as illegal tax protesters, deprive the government of substantial revenue. Illegal tax protesters frequently lure otherwise innocent taxpayers into participating in their schemes to pay little or no taxes. A recent study found that 47,000 illegal tax protesters owed more than \$540 million in taxes -- 2.3% of the total accounts receivable due from individuals. Illegal tax protesters use a variety of false or misleading arguments for not paying taxes, and advise taxpayers not to comply with federal tax laws.

### Constitutional Arguments

1. First Amendment. These illegal tax protesters argue that using the Freedom of Religion clause of the First Amendment can reduce income tax liability. A common scheme calls for individual taxpayers to obtain minister's credentials and a church or religious order charter by mail for a fee. The individuals set up a new organization that purports to be a church, religious order, or other religious organization. They then take a vow of poverty and assign their assets and income to the new organization. Taking a purported vow of poverty or claiming fraudulent contributions to filter money through a church is illegal. The tax law affords benefits to churches and other religious organizations and to individuals who make gifts or contributions to these organizations. The law requires, however, that organizations claiming these benefits actually be operated for religious purposes.
2. Fourth and Fifth Amendments. These illegal tax protesters argue that filing a Form 1040 violates the Fourth Amendment right to privacy or the Fifth Amendment right against self-incrimination. However, the courts have consistently held that disclosure of routine financial information required on a tax return does not incriminate an individual or violate the right to privacy.
3. Sixteenth Amendment. These illegal tax protesters argue the Constitutional amendment establishing the basis for income tax was never properly ratified. However, the Sixteenth Amendment was ratified on February 3, 1913, and it states "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 enumeration."

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## **Internal Revenue Code Arguments**

These illegal tax protesters argue that:

1. there is no Internal Revenue Code that imposes taxes;
2. only “individuals” are required to pay taxes; or
3. the government can assess taxes only against people who file returns.

The tax law is found in Title 26 of the United States Code. Section 6012 of the Code makes clear that only people whose income falls below a certain level do not have to file returns. Section 6201 of the Code states that the Secretary of the Treasury is required to make assessments “of all taxes imposed by this title [Title 26].”

## **Trust Arguments**

These illegal tax protesters argue that forming a business trust to hold your income and assets will avoid taxes or that a family estate trust will allow you to reduce or eliminate your tax liability. In truth, establishing a trust, foreign or domestic, for the sole purpose of hiding your income and assets from taxation is illegal and will not absolve you of your tax liability.

## **Countering Illegal Tax Protester Movements**

The Internal Revenue Service has focused its efforts against illegal tax protester movements by adopting a multi-functional compliance approach.

- The IRS helps otherwise innocent taxpayers who have been misled by illegal tax protesters to rejoin the system.
- The IRS vigorously pursues enforcement actions against those who continue to promote schemes or entice others to violate the law.

Regardless of the argument the illegal tax protesters use, each movement has two things in common: the arguments are consistently rejected by the courts and the participants may face IRS enforcement action.

The IRS has one of the highest conviction rates in federal law enforcement. In addition to the courts handing down substantial prison sentences, those convicted must also pay fines, taxes and penalties.