

John Gary Given, Michele Louise Given



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

John Gary Given, Michele Louise Given)	ED CV 04-00075 RT (MCx)
)	
PLAINTIFF)	JOINT STATUS REPORT
)	
-V-)	Pursuant to Order dated
)	April 4, 2005
United States of America)	
)	
DEFENDANT)	
)	
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Pursuant to the Order of the court, John Gary Given and Michele Louise Given, plaintiffs pro per hereby submit the following unilateral report concerning the status of the case.

1) Summary

Plaintiff's position and allegations have not changed. Defendant has not responded to plaintiff's request, pursuant to F.R. Civ. P 37-1 dated October 10, 2004, for a conference to discuss the issues. Nor has Defendant made any attempt to confer with plaintiffs or to refute the assertions made by plaintiffs.

2) Status

Plaintiff's are unable to address this question, in that defendant has not taken any action towards discussing the issues with plaintiffs.

3) Suggestion to resolve case

Plaintiffs request an honest and open discussion of the Law, including the Legislative history of the pertinent sections applicable to Subtitle C, Chapter 24 of Title 26 United States Code —Collection of Income Tax at Source. Plaintiff's argument involves issues relative to the definition of "employee" provided in 26CFR31.3401 (c)-1 (1996) and the application of the Federal Income Tax to the common law "labor for hire" employee and their "wages". The literal interpretation of this section would seem to be:

The term "employee" includes every individual ["through and by means of which any business, financial operation, or venture is carried on" (26CFR31.0-2 (a) (8))] performing services for their employer; IF the wages paid to them are paid as "compensation for services" (26CFR31.3401 (a) -2), not as annual receipts.

Respectfully submitted,

April 28, 2005

John Gary Given

Plaintiff, pro per

April 28, 2005

Michele Louise Given

Plaintiff pro per

NOTES

a) Where is the Constitutional authority found allowing Congress to classify everyone who labors for a living as being a business entity seeking profit? [U.S. v. Gilmore, 372 U.S. 39, 44 (1963); 26CFR301.7701-1, -2, -3]

b) Where is the Constitutional authority found allowing Congress to discriminate between “person” within the same class; by taxing one based upon commercial net income and another based upon their entire annual receipts (wages)? [Pedone v. United States, 151 F Supp 288 (1957); U.S. v. Tellier, 383 U.S. 687 (1969); Line 22 of the 1040 Tax Return]

c) Did Congress, in fact, classify everyone as being a profit seeking entity and therefore, their annual receipts (wages) constituted net income subject to Subtitle A income taxes? Or, did Congress provide for the assumptions created by the mandatory filing of the W-4 certificate (1942), which lead to the “honest mistake” as to actual liability for the excise tax imposed upon commercial net income by operation of Subtitle A (Chapter 1 of the 1939 I.R.C.)? [26USC 6401 (c); 26USC 3402 (n); 26CFR31.0-2 (a) (8); 31.3401 (a)-1 (a) (2); 31.3401 (c)-1 (a); U.S. v. Romano, 382 U.S. 139 (1965)]