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Was Grandpa Really a Moron?
Critical Inquiries for a New American Century

by

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A Few Thoughts On A Recent Tax Court Dialogue



A CtC-educated American in Tax Court recently trying to get a ruling to remand a "determination" (for pre-CtC years) back to the Appeals Office for lack of having had a face to face hearing was asked to describe his work arrangement. He made a reply and things moved on, but afterwards decided that he wasn't really happy with his answer. He also concluded, on reflection, that this question and answer seemed to be given much significance by the judge and the "Respondent" (IRS attorney), and thus sent me an email asking what I would have said in the same situation.

I agree that this question is significant-- indeed, the very fact that it is asked at all is significant. After all, if "everything that comes in" in exchange for delivering labor by way of ANY "work arrangement" is inherently a measure of an applicable tax, the particulars of the "work arrangement" are immaterial, especially since my correspondent had already testified that he had not been paid "wages", while at the same time acknowledging the receipt of payment and that he was a permanent (that is, non-contractor) member of the paying

entity's workforce. The question, then, can only be in hopes of eliciting a self-contradiction from the careless (the utility of which hinges on the fact that "everything that comes in" in exchange for delivering labor by way of ANY work arrangement is NOT inherently a measure of the tax, but "what comes in" from "work arrangements" of a certain distinguished character is).

I know that this question has been asked in a number of dialogues between CtC-educated Americans and agency personnel, sometimes in Tax Court or collections hearings and sometimes in simple phone conversations, so I thought it worthwhile to post my response to this inquiry in case others are interested as well: If I were asked to describe a non-federally-connected "work arrangement", I would likely reply with something along the line of, *"An entirely private agreement to trade my personally-owned skills, time and effort for some of the other party's supply of negotiable I.O.U.'s."*

My correspondent also reports that at another point in this hearing (right after being asked whether he had received "wages"), he was asked to explain the withheld amounts being claimed as refunds on his return. This inquiry ended when the gentleman simply pointed out that the total reported on line 64 of his return (and carried forward as indicated for the rest of the return) was the combined total of all federal withholdings (nominal "income tax withheld" plus "Social Security tax withheld" and "Medicare tax withheld").

Interestingly, the inquisitor didn't move on to the previously typical follow-up of, *"AHA! If you didn't receive "wages", Mr. Tax-Defier, then how is it that you had amounts withheld?!"* Frankly, I wouldn't be surprised if this triumphantly-issued challenge is being discouraged lately, since it emphasizes the linkage between pay distinguishable as "wages" and the propriety of "withholding"-- inviting the response of, *"Are you thereby admitting that if my pay DOESN'T qualify as "wages",*

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then nothing should be, nor should have been, withheld from it?"

In any event, the challenge wasn't issued this time, but has been often enough in the past under these same general circumstances that I'll take this occasion to share the response I'd be inclined to make should the opportunity arise:

"Surely no one here would dispute that one can have a trading relationship with someone who simply misunderstands or mischaracterizes the relationship, or something about it (or about themselves), or who misunderstands the nature and limitations of the "income tax", and who, for one or more of these or other reasons (none of which it is my responsibility to explain), misapplies certain "withholding" protocols to the victim?!

Obviously, "information return" preparers are capable of making mistakes-- it would be ludicrous to suggest otherwise. These mistakes could be small or they could be large; and they could be of any and all varieties.

Obviously, among those mistakes could be the mischaracterization (and treatment) of payments made to the victim of the mistake as "wages" when they are not.

Indeed, the law anticipates just such mistakes, as is expressed in numerous ways throughout the tax-related-statutory and regulatory structure. There's even a specific statutory provision for a victim to bring civil suit against someone guilty of making exactly this mistake**...*

What a stupid question, Mr. "Respondent"!

Haven't you ever actually read the law?"

*See 'About 1040s And Claiming Refunds' in CtC

**See pp. 141-143 of CtC)