

Dear Madame Attorney General:

I would like to inform you that you won *National Federation of Independent Business v. Sebelius*. Chief Justice John Roberts struck down the individual health insurance mandate as both a tax and a command when he ruled that Congress could not compel commerce. The Court never understood that Congress could have enforced the individual mandate by simply creating a universal excise on all health insurance policies and commanding that Americans pay the excise. This method of taxation would have enforced the mandate as both a command and a tax. The healthcare tax is unconstitutional under Roberts' order against compelling commerce.

You should also be aware that *Sebelius* prevents Congress from collecting all existing income taxes. The Constitution grants Congress the authority to lay and collect duties, imposts and excises, and it also requires that all direct taxes be apportioned. *Sebelius* and *Pollock v. Farmers Loan and Trust Co.* defined duties, imposts and excises as sales taxes, and a sales tax cannot be apportioned in any way. As you know, *Hylton v. United States* gave Congress the authority to directly tax Americans without apportionment when it said that Congress could impose a direct tax on Americans and call it a duty, impost or excise. The Court in *Brushaber v. Union Pacific* used *Hylton* to uphold the first income tax in 1916, and now both rulings are unconstitutional under *Sebelius*. If Congress cannot compel commerce, then it cannot directly tax without apportionment.

A direct tax is a tax on the ownership of anything including the human body (capitation), and it is imposed by command from the government. An indirect tax, *i.e.*, sales tax, is a tax on the sale of anything, and it is not imposed by command. Duties, imposts and excises are sales taxes, and therefore, above all other interpretations, "taxation without apportionment" means to impose a sales tax, and "direct taxation without apportionment" means to impose a sales tax as a direct tax.

The power to directly tax without apportionment is the power to compel a sale, because a sales tax only compels a sale if used as a direct tax. In other words, if the payment of a sales tax could be commanded like the payment of a direct tax, then the choice to buy would be entirely removed from the consumer. For example, if the Health Insurance Tax (HIT) was imposed as a direct tax, then Americans would be compelled to buy a Cadillac health insurance policy. Also, if the Firearms Ammunition and Excise Tax was imposed as a direct tax, then the sale of a firearm or ammunition would be compelled.

Like the healthcare tax, a sales tax on health insurance could have been imposed on Americans for not purchasing health insurance, and in fact, mandating the sale health insurance with a tax on the sale of health insurance would have enforced the act that Congress attempted to mandate: the sale of health insurance. Simply put, if the individual mandate cannot be enforced with a direct sales tax, then it cannot be enforced with the healthcare tax.

An excise can only regulate a sale by making what is sold more expensive, and this is accomplished by adding the amount of the tax to the cost of what is sold. The *Brushaber* Court said that an income tax is an excise, and under *Sebelius*, an excise can only be used one way to tax the sale of labor. First, its rate must be determined by the type of labor that is sold. In other words, the rate of the tax must be determined by a type of job rather than an income bracket. The rate of an excise cannot be determined by an income bracket, because income, *i.e.*, legal tender, cannot be sold. Second, an excise on labor must always be added to the cost of labor, because this is only way it can regulate the sale of labor. **Figure 1** (attached to the back) shows how to impose a sales tax on labor.

Under *Sebelius*, any excise on labor can only be used as a regulatory tax. It said, “But taxes that seek to influence conduct are nothing new. Some of our earliest federal taxes sought to deter the purchase of imported manufactured goods in order to foster growth of domestic industry. Today, federal and state taxes can compose more than half the retail price of cigarettes, not just to raise more money, but to encourage people to quit smoking. And we have upheld such obviously regulatory measures as taxes on selling marijuana and sawed-off shotguns. Indeed, ‘[e]very tax is in some measure regulatory. To some extent it interposes an economic impediment to the activity taxed as compared with others not taxed.’” It also said, “Congress’s use of the Taxing Clause to encourage buying something is, by contrast, not new”, and “Congress may not, for example, expand its power under the Taxing Clause.”

The Sixteenth Amendment does not give Congress the authority to directly tax without apportionment, because it does not mention the term *Direct Taxes*. The Sixteenth Amendment only mentions taxation without apportionment, and this is why it does not grant any special taxing power beyond the Taxing Clause. The Sixteenth Amendment only gives Congress the authority to impose sales taxes, and as a result, the Taxing Clause strictly prohibits the collection of all existing federal income taxes and withholding taxes. All income taxes on inheritance, capital gains, dividends, royalties, gambling and charitable donations must be apportioned since they are only direct taxes and not excises. They are not excises, because their payment does not produce a contract of sale.

The Commerce Clause prevents the healthcare tax from being collected. *Sebelius* said, “The Court today holds that our Constitution protects us from federal regulation under the

Commerce Clause so long as we abstain from the regulated activity.” It also said that to tax is to regulate, and therefore, Congress cannot tax Americans when they abstain from a sale.

Sebelius allows all free Americans to own a gun, because it ruled that paying a tax is a lawful act. This means that no American can be penalized in any way for paying the Firearms and Ammunition Excise Tax or a state sales tax when a gun is purchased. *Sebelius* said, “We do not make light of the severe burden that taxation-especially taxation motivated by a regulatory purpose-can impose. But imposition of a tax nonetheless leaves an individual with a lawful choice to do or not do a certain act, so long as he is willing to pay a tax levied on that choice”, and “Congress’s authority under the taxing power is limited to requiring an individual to pay money into the Federal Treasury, no more. If a tax is properly paid, the Government has no power to compel or punish individuals subject to it.” It also said, “In distinguishing penalties from taxes, this Court has explained that ‘if the concept of penalty means anything, it means punishment for an unlawful act or omission.’”

This letter only scratches the surface with regards to the impact of *Sebelius* on our nation. *The Gospel of Gun Rights* (<http://www.thegospelofgunrights.com/>) is a free publication, and it discusses the issues in this letter in greater detail along with many others that were also affected. You should never be asked to apologize for your effort, because you are the winner. Thanks to your hard work and dedication, our nation will not only become great again...it will become greater than ever before.

Figure 1.

JOB	SALARY	TAX RATE	TAX TOTAL	ANNUAL INCOME
Cashier	\$21,820	4.5%	\$981.90	\$22,801.90
Teacher	\$43,500	10.6%	\$4,611.00	\$48,111.00
Nurse	\$71,250	14.0%	\$9,975.00	\$81,225.00
Mechanic	\$36,680	8.6%	\$3,154.48	\$39,834.48
HAZMAT Driver	\$66,790	13.7%	\$9,150.23	\$75,940.23
Paralegal	\$51,850	11.9%	\$6,170.15	\$58,020.15
Plumber	\$54,630	12.3%	\$6,719.49	\$61,349.49
Welder	\$37,110	5.8%	\$2,152.38	\$39,262.38
Waiter	\$21,640	4.5%	\$973.80	\$22,613.80
Carpenter	\$42,990	10.7%	\$4,599.93	\$47,589.93
Police Officer	\$60,270	10.0%	\$6,027.00	\$66,297.00
Firefighter	\$46,870	10.0%	\$4,687.00	\$51,557.00
Paramedic	\$31,980	8.0%	\$2,558.40	\$34,538.40
Electrician	\$51,880	11%	\$5,706.80	\$57,586.80
Construction	\$30,890	5.5%	\$1,698.95	\$32,588.95
Sanitation	\$23,440	5.0%	\$1,172.00	\$24,612.00