NO. _____

SUPREME COURT OF THE UNITED STATES
OF AMERICA

LOUIS MILTON WILLIS,

Petitioner,

v.

PEOPLE OF THE VIRGIN ISLANDS,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE VIRGIN ISLANDS

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

48 U.S.C. § 1397 provides as follows. "The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United States." Congress limits the territorial legislature's power to vest jurisdiction in local courts to those "causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction." 48 U.S.C. § 1611(b).

With specific regard to litigation regarding income tax crimes, 48 U.S.C. § 1612(a) provides that "[t]he District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands." This Court has declared repeatedly that the meaning of "income" is expansive, including all accession to wealth. *See Helvering v. Bruun*, 309 U.S. 461, 84 L. Ed. 864, 60 S. Ct. 631 (1940). "Income" for states and governmental entities, as settled by decisions of the Court, includes revenues obtained from gross receipts taxes. *See, e.g., CSX Transp., Inc. v. Ala. Dep't of Revenue*, 562 U.S. 277, 284-85, 131 S. Ct. 1101, 1106 (2011); *Aloha Airlines v. Dir. Of Taxation,* 464 U.S. 7 (1983).

Despite these clear jurisdictional provisions and the expansive sense of income tax declared and settled by the decisions of this Court, the Virgin Islands Supreme Court concluded that "the territorial gross receipts tax does not constitute an 'income tax law applicable to the Virgin Islands' within the meaning of § 1612(a)." The question presented for this Court's review is:

> Whether the plain language of § 22 of the Revised Organic Act of 1954 [48 U.S.C. § 1612(a)] establishing that "the District Court of the Virgin Islands *shall* have *exclusive jurisdiction* over *all criminal* ...proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands" also vests the same jurisdiction in the Superior Court of the Virgin Islands, a local court created by the local legislature, in the case of gross receipts taxes.

LIST OF PARTIES

All parties to this proceeding are named in the caption of the case.

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IN THE
SUPREME COURT OF THE UNITED STATES
OF AMERICA

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issues to review the judgment below.

OPINIONS BELOW

The Supreme Court of the Virgin Islands filed its Order and Opinion on July 11, 2019. It is published officially and unofficially as *Willis v. People of the Virgin Islands*, 2019 VI 25, 2019 V.I. Supreme LEXIS 38, at *1, 2019 WL 3291616. The Opinion appears in **Appendix A**. The Superior (trial) Court's October 1, 2015 Judgment and Commitment appears in **Appendix B**. It is not published. The Amended Information appears in **Appendix C**. The trial court's instructions to the jury appear in **Appendix D.**

STATEMENT OF THE BASIS OF THE COURT'S JURISDICTION

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1260 and Rules 10(b) & (c) of this Court. The Opinion of the Supreme Court of the Virgin Islands was entered on July 11, 2019. That territorial court decided an important federal question in a manner which conflicts with the decisions of two courts of appeals and in a manner which conflicts with relevant decisions of this Court by declaring that a territorial gross receipts tax is not an "income tax law applicable to the Virgin Islands" within the meaning of the Revised Organic Act of the Virgin Islands. 48 U.S.C. § 1541 *et seq*. An important federal question is presented where a territory limits the powers of federal court. *See, e.g., Guam v. Olsen,* 431 U.S. 195, 196, 97 S. Ct. 1774, 1776 (1977) ("Whether the provision of § 22 of the 1950 Organic Act of Guam that the District Court of Guam...authorizes the Legislature of Guam to divest the appellate jurisdiction of the District Court under the Act to hear appeals from local Guam courts, and to transfer that jurisdiction."); *Cf. Taylor v. McKeithen*, 407 U.S. 191, 194, 92 S. Ct. 1980, 1982 (1972)("this petition would present an important federal question of the extent to which the broad equitable powers of a federal court....are limited....").

This Petition is timely. It is filed prior to the expiration of the ninety (90) day period allowed by Rule 13 of this Court. The Petition was filed on October 9, 2019.

The Virgin Islands legislature's power to vest jurisdiction in a local court extends only to "causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction." 48 U.S.C. § 1611(b). But §1612(a) provides that "[t]he District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands." How does the Superior Court, a local court created by the local legislature, exercise jurisdiction over criminal tax charges against Petitioner, when § 1612(a) explicitly vests jurisdiction in the District Court?

The Virgin Islands Supreme Court concluded that because gross receipts taxes are not "tax laws applicable to the Virgin Islands," jurisdiction over tax crimes is vested in the Superior Court of the Virgin Islands. *Willis v. People of the Virgin Islands*, 2019 VI 25, 2019 V.I. Supreme LEXIS 38, at *1, 2019 WL 3291616. This calls into question the validity of the plain language of section 22 of the Revised Organic Act, 48 U.S.C. § 1612, which plainly vests in the District Court "*exclusive* jurisdiction over *all* criminal and civil proceedings…with respect to the income tax laws applicable to the Virgin Islands."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

US Const. Art. IV, § 3, Cl 2. Territory or property of the United States.

> The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

US Const. Art. IV, § 3, Cl 2

The federal statute interpreted by the Supreme Court of the Virgin Islands is section 22 of the Revised Organic Act of 1954, involving primarily 48 U.S.C. § 1611-12.

48 U.S.C.S. § 1397. Income tax laws of the United States in force; payment of proceeds; levy of surtax on all taxpayers

> The income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United States, except that the proceeds of such taxes shall be paid into the treasuries of said islands: *Provided further,* That, notwithstanding any other provision of law, the Legislature of the Virgin Islands is authorized to levy a surtax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of the Virgin Islands.

48 U.S.C. § 1397

48 U.S.C. § 1611. District Court of the Virgin Islands; local courts; jurisdiction; practice and procedure

> **(a) District Court of the Virgin Islands; local courts.** The judicial power of the Virgin Islands shall be vested in a court of record

designated the "District Court of the Virgin Islands" established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law.

(b) Jurisdiction. The legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the concurrent jurisdiction conferred on the District Court of the Virgin Islands by section 22(a) and (c) of this Act [48 U.S.C. § 1612(a) and (c)].

(c) Practice and procedure. The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts.

48 U.S.C. § 1611

48 U.S.C. § 1612. Jurisdiction of District Court

(a) Jurisdiction. The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1954 [1986] [26 U.S.C. §§ 7201 *et seq.*] shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 27 of this Act [48 U.S.C. § 1617].

48 U.S.C. § 1612

STATEMENT OF CASE SETTING OUT MATERIAL FACTS

A. The Revised Organic Act of the Virgin Islands and adoption of federal tax law as a local territorial tax system

Article IV, section 3 of the United States Constitution gives to Congress the plenary power over territories. The Revised Organic Act ("ROA") of the Virgin Islands as amended (48 U.S.C. §§ 1541-1645) establishes a system of government for the Virgin Islands. 48 U.S.C. § 1611(a) provides that the "judicial power of the Virgin Islands shall be vested in a court of record designated the District Court of the Virgin Islands established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law." Further, 48 U.S.C. § 1611(b) provides that the "legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States *does not* have exclusive jurisdiction."

ROA also contains provisions that govern the adoption of an income tax system for the Virgin Islands. 48 U.S.C. § 1397 provides that the "income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United

States." § 1397's provision that the Virgin Islands shall adopt the United States tax laws as a local territorial income tax constitutes what is commonly referred to as a "mirror code" system. Congress has described such systems, which are implemented in several insular areas, including Guam, and Puerto Rico, as "the provisions of law . . . which make the provisions of the income tax laws of the United States . . . in effect in a possession of the United States." 26 U.S.C. § 931 (note); *see* 48 U.S.C. § 1421i (Guam); 48 U.S.C. § 1397 (Virgin Islands); 48 U.S.C. § 734 (Puerto Rico). To implement § 1397, the Virgin Islands legislature enacted in Subchapter II, title 33 of the Virgin Islands Code, a comprehensive plan for procedure and administration of the mirror image income tax system. It is derived from Subtitle F of the Internal Revenue Code of 1954. It provides for judicial review in the district court of the Virgin Islands of asserted deficiencies, 33 V.I.C. §§ 942, 943, 944, and 1931(1). This appears to mirror review in the United States Tax Court. 26 U.S.C. §§ 6212, 6213. It permits refund suits in 33 V.I.C. § 1692, appearing to mirror 26 U.S.C. § 7422. Nowhere does the Virgin Islands legislature vest jurisdiction over income tax matters or crimes in the local courts created by the Virgin Islands legislature. 33 V.I.C. *passim.*

B. The Superior Court of the Virgin Islands

From 2000 to 2006, Louis Milton Willis ("Petitioner") served as the Director

of the Virgin Islands Bureau of Internal Revenue ("BIR"). From 2002 to 2008, during his tenure as Director, and shortly after his term ended —Petitioner furnished false tax clearance letters to the owner of Balbo Construction, Inc., a Willis' friend. Balbo's owner was not in fact current on his payment of gross receipts taxes. The purpose of BIR's tax clearance letter is to ensure that only tax-paying businesses qualify for a business license issued by the Virgin Islands Department of Licensing.

Petitioner's motion to dismiss at the Superior Court contending that the court lacked subject matter jurisdiction over the case and over the parties was denied. Section 22 of the Revised Organic Act of 1954 [section 1612(a) of title 48 of the United States Code], he argued, vests exclusive jurisdiction over tax crimes in the Congressionally-created District Court of the Virgin Islands. The Superior Court denied his motion to dismiss in a November 10, 2014 order. *People of the V.I. v. Willis*, 61 V.I. 60, 70 (Super. Ct. 2014).

The government of the Virgin Islands charged Willis with: Count I, conspiracy to evade or defeat tax in violation of 33 V.I.C. § 1522; Count II, aiding and abetting the willful failure to collect or pay over tax in violation of 33 V.I.C. §1523 and 14 V.I.C. §11; Count III, fraud and false statements in violation of 33 V.I.C. §1525(2). These crimes mirror the following United States tax crimes: 26 U.S.C. § 7201, Attempt to evade or defeat tax (the local charge is conspiracy to

evade or defeat tax, otherwise the language is identical); 26 U.S.C. § 7202, Willful failure to collect or pay over tax; and 26 U.S.C. § 7206, Fraud and false statements.

The jury found Petitioner guilty of conspiracy to defeat or evade tax in violation of 33 V.I.C. § 1522 (Count I) and aiding and abetting willful failure to collect or pay over tax pursuant to 14 V.I.C. § 11 and 33 V.I.C § 1523 (Count 2). As to Count 3, fraud and false statements in violation of 33 V.I.C. § 1525(2), the jury returned a "not guilty" verdict. In an October 1, 2015, judgment and commitment, the Superior Court of the Virgin Islands imposed a sentence of two years in prison. *Willis v. People of the V.I.*, 2019 V.I. Supreme LEXIS 38, at *3-4 (July 11, 2019).

The United States Department of the Interior, Office of the Inspector General, published its audit titled COLLECTION OF OUTSTANDING TAXES AND FEES GOVERNMENT OF THE VIRGIN ISLANDS, REPORT NO. V-IN-VIS-011-2006 (2008). The Department of Interior found that if Petitioner did not issue the tax clearance letters, the Department of licensing would nevertheless issue the business licenses, allowing the business to operate lawfully in the Virgin Islands. Here are the key findings of the Inspector General's report:

> Twenty-two years after the Virgin Islands legislature passed legislation to prevent tax evasion, we discovered the circumvention of this legislation and the abuse of power by an official charged with enforcement of law. DLCA's issuance of business licenses without tax clearance letters and BIR's issuance of clearance letters when

> delinquent taxes were owed rendered the tax evasion legislation ineffective and further undermined the integrity of GVI's tax collection efforts.

(*Id.* at 18.) The audit continues:

> We are told that DCLA, acting alone and contrary to law, established an internal policy that allows only 15 working days for receipt of a tax clearance letter before DCLA will issue a license anyway. This practice creates an environment that at best fails to prevent tax evasion and at worst encourages and abets it.
>
> We found eight instances where taxpayers obtained current business licenses without obtaining a tax clearance letter from BIR and three additional instances, where despite unfavorable tax clearance letters from BIR, taxpayers were granted current business licenses. In one of these instances, the applicant received a business license after receiving an unfavorable letter from BIR for $3.5 million in unpaid gross receipts and withholding taxes.

(*Id.* at 19.) Nobody testified--and no documentary evidence exists--that Petitioner knew or had reason to know that it is criminal to issue a tax clearance letter or that issuing one could possibly defeat any tax. The federal audit accused him of "abuse of power" but not criminal conduct. *Id.* at 19. With the false tax clearance letters but without consideration of materiality based on the federal audit, Petitioner was charged and convicted.

Petitioner filed a timely notice of appeal. No issue of Petitioner's conviction is raised in this Petition, except as follows. First, the texts of the local crimes under the Virgin Islands Code are presented along with those of the United States Code.

The Court may notice that they mirror one another. The instructions to the jury, **Appendix D**, speaks for itself. Second, "as the sources we are aware of demonstrate, the common law could not have conceived of 'fraud' without proof of materiality," this Court wrote. *Neder v. United States*, 527 U.S. 1, 22, 119 S. Ct. 1827, 1840 (1999). From the instructions, the Court may observe that Petitioner was charged with crimes involving fraud without considerations of materiality. The Court may further observe that, in conflict with *Rosemond v. United States*, 572 U.S. 65, 67, 134 S. Ct. 1240, 1243 (2014), Petitioner was charged with aiding and abetting a crime, but no crime was first committed by another.

C. Virgin Islands Supreme Court

Are territorial gross receipts tax laws "income tax laws applicable to the Virgin Islands" within the meaning of § 1612(a), prosecutions for which must be commenced at the District Court of Virgin Islands? The Supreme Court decided that gross receipt taxes are local tax laws not "income tax laws applicable to the Virgin Islands" within the meaning of § 1612(a). Therefore, the Supreme Court decided that the Superior Court had jurisdiction over this case. In reaching this conclusion, the court relied on the legislative history because of "the long and complicated history of taxation in the Virgin Islands." Further, the Court relied primarily on Senator Lowell Weicker's statements as "dispositive of the question presented." The Senator

stated, "the income tax laws applicable to the Virgin Islands *are* the provisions of the Internal Revenue Code..." The Court concludes:

> Considering these remarks — (1) that the "income tax laws applicable to the Virgin Islands" are the provisions of the Internal Revenue Code; (2) that the purpose of the exclusive jurisdiction provision is to maintain uniformity of interpretation of those provisions of the Internal Revenue Code; and (3) that §1612(a) was intended to function "in analogy" to its counterpart in the Organic Act of Guam-in their proper historical context as described in the previous decisions of this Court and the Third Circuit, we are compelled to conclude that in using the phrase "income tax laws applicable to the Virgin Islands" in §1612(a), Congress intended to refer specifically to the provisions of the Internal Revenue Code that apply to the Virgin Islands through the mirror tax system. This conclusion harmonizes the statutory language with both the stated intentions of Congress in amending §1612(a), and with Congress' overarching purpose in enacting the 1984 amendments generally: to give local courts jurisdiction over local law.

Willis v. People of the V.I., 2019 V.I. Supreme LEXIS 38, at *19-20 (July 11, 2019).

D. The Concurring Opinion

The concurring opinion disagrees with the majority's extensive reliance on legislative history at the expense of statutory language:

> I contend that the majority, while claiming to rely upon the "plain language" of the statute in question, ignores the actual words of subsection 22(a) in its analysis and places the focus, instead, almost exclusively on case law interpretations and on the legislative history, as if these are the primary means by which the plain meaning of the statutory language is determined-as opposed to using the legislative history as providing the context necessary to clarify ambiguous language in the statute that may be open to interpretation. *See Crandon v. United States*, 494 U.S. 152, 158, 110 S. Ct. 997, 108 L. Ed. 2d 132

> (1990) (recognizing that the entire process of statutory interpretation is controlled by the presumption that the ordinary meaning of the chosen words manifests the legislative intent); *e.g.*, *In re Sherman*, 49 V.I. 452, 456 (V.I. 2008) (noting that, where the plain language of a statute discloses the legislative intent, the interpretive inquiry is over); *see also United States v. Lanier*, 520 U.S. 259, 265 n.5, 117 S. Ct. 1219, 137 L. Ed. 2d 432 (1997).

Willis v. People of the V.I., 2019 V.I. Supreme LEXIS 38, at *31 (July 11, 2019)(Justice Ive Arlington Swan, concurring).

REASONS FOR ALLOWANCE OF THE WRIT

I. IN THE REVISED ORGANIC ACT CONGRESS PLAINLY VESTED EXCLUSIVE JURISDISCTION IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

A. Congress explicitly vested jurisdiction over tax crimes in the District Court of the Virgin Islands in clear language

Under 48 U.S.C. § 1612(a), "the District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands the District Court of the Virgin Islands." The Court's analysis "begins with the language of the statute," and when "the statutory language provides a clear answer, it ends there as well." *Hughes Aircraft Co. v. Jacobson*, 525 U.S. 432, 438 (1999) (quotation omitted). The "court's proper starting point lies in a careful examination of the ordinary meaning and structure of the law itself." *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019). "Where, as here, that examination yields a clear answer, judges must stop." *Id.* "Even those of us who sometimes consult legislative history will never allow it to be used to "muddy" the meaning of "clear statutory language." *Id.*

The statute's text and structure are simple. First, under § 1611(b), Congress bars the local legislature from vesting jurisdiction in a local court *unless* a court

established by Congress, such as the District Court, "does not have exclusive jurisdiction." Second, in § 1612(a), Congress explicitly vests exclusive jurisdiction in the District Court: "over all criminal and civil proceedings... with respect to the income tax laws applicable to the Virgin Islands." The very clear answer is that the ordinary meaning of "exclusive" vests "exclusive jurisdiction" in the District Court. With this clear answer, the judges of the Superior Court and of the Supreme Court of the Virgin Islands should have stopped. "Congress may confine jurisdiction to the federal courts either explicitly or implicitly." *Gulf Offshore Co., Div. of Pool Co. v. Mobil Oil Corp.*, 453 U.S. 473, 478, 101 S. Ct. 2870, 2875 (1981). In this case, Congress confined jurisdiction to the District Court explicitly.

B. Congress employed "shall" and "all" to make even louder and clearer its clear command of jurisdiction in the District Court

Congress clearly commands jurisdiction in the District Court by using "shall" and "all." §1612(a)'s use of "shall" makes mandatory what follows--- "have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands." *See Lopez v. Davis*, 531 U.S. 230, 241, 121 S. Ct. 714, 148 L. Ed. 2d 635 (2001) (noting Congress' "use of a mandatory 'shall' . . . to impose discretionless obligations"). To make its clear command even louder and clearer, Congress employed "all." § 1612(a)'s

"all" in "*over all criminal and civil proceedings* in the Virgin Islands...," means exactly what it says. When "all" is used before a plural noun such as "all criminal proceedings with respect to the income tax laws applicable to the Virgin Islands," every criminal proceeding with respect to every income tax law applicable to the Virgin Islands is included. *See, e.g., Hennepin Cty. v. Fannie Mae*, 742 F.3d 818, 822 (8th Cir. 2014)("We have determined that the use of "shall" in a statute makes what follows mandatory ... and that "'all' means all."); *Appalachian States Low-Level Radioactive Waste Comm'n v. O'Leary*, 93 F.3d 103, 109 n.6 (3d Cir. 1996) ("It seems enough that the statute says 'all' waste. 'All' means 'all.'"); *Knott v. McDonald's Corp.*, 147 F.3d 1065, 1067 (9th Cir. 1998) ("In short, "all" means all."). This obvious plain interpretation is further bolstered by contemporary tax decisions of this Court.

C. Since 1920 at the latest, this Court has construed "income" and "tax" increasingly expansively to include local gross receipts taxes within "income tax laws applicable to the Virgin Islands."

Since 1920 at the latest, Congress has used, and this Court has construed, "income" and "tax" expansively to include all accessions to wealth by individuals, corporation, and states or other governmental entities. *See, e.g., Eisner v. Macomber*, 252 U.S. 189, 207, 40 S. Ct. 189, 193 (1920). In the Revised Organic Act "income-tax laws in force in the United States of America ...shall be held to be likewise in

force in the Virgin Islands of the United States," 48 U.S.C. § 1397. Congress was no doubt aware of the expansive meaning of "income" when it enacted §1612 and §1397. *See Cannon v. Univ. of Chi.*, 441 U.S. 677, 699, 99 S. Ct. 1946, 1958 (1979) ("it is not only appropriate but also realistic to presume that Congress was thoroughly familiar with these unusually important precedents from this and other federal courts and that it expected its enactment to be interpreted in conformity with them."). Hence, there can be no question that gross receipts taxes form part of §1612's "income tax laws applicable to the Virgin Islands."

In *Eisner*, the Court defined income as "the gain derived from capital, from labor, or from both combined." 252 U.S. at 207. Several decades later, the Court explained that *Eisner's* definition was not exhaustive, and that other forms of gain counted as income. *Helvering v. Bruun*, 309 U.S. 461, 84 L. Ed. 864, 60 S. Ct. 631 (1940). Over another decade later, in *Comm'r of Internal Revenue v. Glenshaw Glass Co.*, 348 U.S. 426, 99 L. Ed. 483, 75 S. Ct. 473 (1955), the Court adopted a sweeping definition of income as including all "undeniable accessions to wealth, clearly realized, and over which the [subject has] complete dominion." *Id.* This prevailing definition means that all revenues are taxable income, unless specifically excluded by a rule or statute. Two decisions of this Court further demonstrate that

gross receipts taxes customarily come within the income tax laws applicable to a state or municipality.

In CSX Transp., Inc. v. Ala. Dep't of Revenue, 562 U.S. 277, 284-85, 131 S. Ct. 1101, 1106 (2011), the Court specifically identifies gross receipts tax as a form of revenue or income by the state or other governmental entity. This Court explained why a gross receipts tax plainly means "another tax" within the meaning of a federal statute, 49 U.S.C. § 11501(b) (4). Alabama imposed a sales tax on the gross receipts of retail businesses and a use tax on the storage, use, or consumption of tangible personal property. But §11501(b)(4) provides that a State may not "[i]mpose *another tax* that discriminates against a rail carrier." Alabama's gross receipts tax and use taxes on diesel fuel applied to rail carriers, but not to motor or water carriers. Therefore, CSX Transp., Inc. challenged Alabama's taxes as unlawful.

"Is CSX challenging 'another tax' within the meaning of the statute?", this Court asked. 562 U.S. at 284. Yes, it answered, a sales tax on the gross receipts of retail businesses is another tax after considering the expansive ordinary meaning of "tax" which is undefined and unlimited by the statute. *Id.* Here is the Court's explanation:

> An excise tax, like Alabama's sales [gross receipts] and use tax, is "another tax" under subsection (b)(4). The 4-R Act does not define "tax"; nor does the statute otherwise place any matters within, or

> exclude any matters from, the term's ambit. In these circumstances, we look to the word's ordinary definition, *Asgrow Seed Co.* v. *Winterboer*, 513 U.S. 179, 187, 115 S. Ct. 788, 130 L. Ed. 2d 682 (1995), and we note what taxpayers have long since discovered--that the meaning of "tax" is expansive. A State (or other governmental entity) seeking to raise revenue may choose among multiple forms of taxation on property, income, transactions, or activities. '[A]nother tax,' as used in subsection (b)(4), is best understood to refer to all of these--more precisely, to encompass any form of tax a State might impose, on any asset or transaction, except the taxes on property previously addressed in subsections (b)(1)-(3). *See Burlington Northern R. Co.* v. *Superior*, 932 F.2d 1185, 1186 (CA7 1991) (Subsection (b)(4) includes "an income tax, a gross-receipts tax, a use tax, an occupation tax . . . -- whatever"). The phrase "another tax" is a catch-all.

CSX Transp., Inc. v. Ala. Dep't of Revenue, 562 U.S. 277, 284-85, 131 S. Ct. 1101, 1106 (2011). Correspondingly, Virgin Islands gross receipts tax laws, like Alabama's gross receipts sales and use tax, would be an income tax, because Virgin Islands undisputedly increased its wealth and this is "income" as understood by this Court. 48 U.S.C. § 1397 provides: "the income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands. §1612 provides for "exclusive jurisdiction over all ...proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands. Neither §1397 nor §1612 defines "tax." Nowhere does the Revised Organic Act of the Virgin Islands place any matters within, or exclude any matters from, the word's ambit.

Applying the plain language in *Aloha Airlines v. Dir. Of Taxation,* 464 U.S. 7 104, S. Ct. 291, 295 (1983), this Court rejected the notion that local gross receipts taxes are exempt from the reach of federal tax laws. 49 U. S. C. § 1513(a) provides that "(a) No State . . . shall levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on persons traveling in air commerce." But Hawaii's Haw. Rev. Stat. § 239-6 requires that "[t]here shall be levied and assessed upon each airline a tax of four percent of its gross income each year from the airline business." This Court concluded that:

> The *plain language* of 49 U. S. C. § 1513(a) would appear to invalidate Haw. Rev. Stat. § 239-6. Section 1513(a) expressly pre-empts gross receipts taxes on the sale of air transportation or the carriage of persons traveling in air commerce, and Haw. Rev. Stat. § 239-6 is a state tax on the gross receipts of airlines selling air transportation and carrying persons traveling in air commerce.

Aloha Airlines v. Dir. of Taxation, 464 U.S. 7, 11, 104 S. Ct. 291, 294 (1983). To resolve this conflict, Hawaii's Supreme Court "looked beyond" § 1513(a)'s clear statutory language "to Congress' purpose in enacting the statute." *Id.* Based on this, the court concluded that Congress passed § 1513(a) "to deal with the proliferation of local and state head taxes on airline passengers in the early 1970's." *Id.* It further found that "Haw. Rev. Stat. § 239-6 is imposed upon air carriers as opposed to air travelers." *Id.* at 11-12. Therefore, "the Hawaii court reasoned that the provision did

not come within the ambit of § 1513(a)'s prohibitions." *Id.* at 11-12. This Court made clear that a gross receipts tax is at least an indirect tax on the income of the taxpayer. Here is this Court's plain explanation:

> we are unpersuaded by appellee's contention that, because the Hawaii Legislature styled § 239-6 as a property tax measured by gross receipts rather than a straightforward gross receipts tax, the provision should escape pre-emption under § 1513(b)'s exemption for property taxes. The manner in which the state legislature has described and categorized § 239-6 cannot mask the fact that the purpose and effect of the provision are to impose a levy upon the gross receipts of airlines. Section 1513(a) expressly prohibits States from taxing "directly or indirectly" gross receipts derived from air transportation. Beyond question, a property tax that is measured by gross receipts constitutes at least an "indirect" tax on the gross receipts of airlines. A state statute that imposes such a tax is therefore pre-empted.

Aloha Airlines v. Dir. of Taxation, 464 U.S. 7, 13-14, 104 S. Ct. 291, 295 (1983). The Virgin Islands has done what Hawaii did in *Aloha Airlines*. But a state or territory cannot avoid federal income tax laws by labelling its income "local gross receipts taxes." *Id.* The decision of the Virgin Islands Supreme Court is in conflict with well-established decisions of this Court and those of at least two circuit courts of appeals decisions interpreting the same statutory language.

D. Two circuit courts of appeals have held that the same plain language in two Revised Organic Acts vests jurisdiction in the District Court. The Opinion of the Virgin Islands Supreme Court is in conflict with them.

Congress explicitly vested jurisdiction in the District Courts of the Virgin Islands

and of Guam using the *same* language. *Compare* 48 U.S.C. § 1612 ("The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands...") *with* 48 U.S.C. § 1421i ("the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax."). Based on the plain statutory language, two United States Courts of Appeals conclude that Congress vested jurisdiction in the District Court in plain language. The decision of the Virgin Islands Supreme Court is in conflict with both courts' decisions.

In *Birdman v. Office of the Governor*, 677 F.3d 167, 176 (3d Cir. 2012), the court applies 1612(a)'s plain language at the onset.

> Our inquiry into the meaning of a statute begins with its plain language. *See Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253-54, 112 S. Ct. 1146, 117 L. Ed. 2d 391 (1992). The grant of "exclusive jurisdiction" here applies to "all criminal and civil *proceedings in the Virgin Islands* with respect to the income tax laws applicable to the Virgin Islands.

Birdman v. Office of the Governor, 677 F.3d 167, 176 (3d Cir. 2012) Although the court applied other interpretive tools to bolster its plain reading, it relied solely on the plain language of the statute and not its legislative history. *Id.* ("The presumption

against superfluities reinforces this reading of the statutory language."). *Birdman* went on to conclude that "the District Court of the Virgin Islands has 'exclusive jurisdiction' over proceedings 'with respect to the income tax laws applicable to the Virgin Islands' only as against local courts in the Virgin Islands." *Id.* at 177.

Likewise, in *Gov't of Guam v. Superior Court of Guam*, 998 F.2d 754, 755 (9th Cir. 1993), the court applied the plain meaning, not legislative history, to determine the jurisdiction of Guam's District Court. The Court affirmed an order dismissing a taxpayer's rebate suit because the Superior Court of Guam lacked jurisdiction over the claim because it involved the Guam territorial income tax. The court also found that the statute expressly confined to the District Court of Guam jurisdiction over rebate lawsuits. The Ninth Circuit echoed this Court's expansive reading of "income" as every accession to wealth in rejecting the taxpayer's argument that rebates were not income tax. "The very remedy prayed for by the appellant is a rebate of the territorial tax. The result directly affects the amount of tax revenue to be retained by Guam." *Id.* The court declares its adherence to the plain meaning as follows:

> Congress provided that the District Court should exercise jurisdiction over any judicial proceeding 'with respect' to the Territorial tax, expressly stating that any suits alleging recovery or rebates of the Territorial tax are to be heard in the district court. 28 U.S.C. § 1421i(h)(2). As the Appellate Division correctly concluded, the "plain

> reading" of both provisions of the jurisdictional statute "compels the conclusion that [Congress] contemplated that *all* suits for a refund of income taxes, whatever the basis for the suit, be brought in the District Court."

Id. Likewise, in *Forbes v. Maddox,* 339 F.2d 387 (1964), the court concludes that the District Court's exclusive jurisdiction includes determinations of tax deficiencies. "48 U.S.C. § 1424(a) grants jurisdiction to the District Court of Guam over 'causes in Guam, jurisdiction over which has not been transferred by the legislature to other court or courts established by it.'" *Id.* The court continued. "With specific regard to tax litigation, 48 U.S.C. § 1421i(h) provides in subsection (1) that 'the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam * * * with respect to the Guam Territorial income tax.'" Then, it concludes, "these jurisdictional grants appear to include suits to redetermine Territorial income tax deficiencies." *Forbes v. Maddox*, 339 F.2d 387, 388 (9th Cir. 1964).

The Opinion of the Virgin Islands court conflicts with these well-settled precedent decisions of at least two circuit courts of appeals. This Court's review is summoned.

E. The Supreme Court of the Virgin Islands erred in utilizing inadequate legislative history, unsupported by broad congressional tax policy towards the Virgin Islands

The Supreme Court of the Virgin Islands embraced legislative history "as dispositive of the question presented here." But this is an (1) incomplete reading of Congressional tax policy in the Virgin Islands and (2) it completely fails to address *tax crimes* which are within the exclusive jurisdiction of the District Court.

1. The Virgin Islands Supreme Court relies solely on one Senator's remarks that do not address tax crimes

The conclusive basis of the Virgin Islands Supreme Court's decision is as follows.

> Thus, while neither this Court nor the Third Circuit has yet had occasion to specifically consider what Congress meant by 'income tax laws applicable to the Virgin Islands,' or what Congress intended to accomplish by including this language in §1612(a), there is ample precedent to show us precisely where to look for guidance. Indeed, an examination of the Congressional record reveals three details of Senator Weicker's explanation [130 Cong. Rec. S23,787 (daily ed. Aug. 10, 1984)], that are dispositive of the question presented here. Each of these details will be discussed, in turn.

Willis v. People of the V.I., 2019 V.I. Supreme LEXIS 38, at *12 (July 11, 2019). Based on Senator Weicker's remarks, the Court concluded as follows:

> Considering these remarks — (1) that the 'income tax laws applicable to the Virgin Islands' are the provisions of the Internal Revenue Code; (2) that the purpose of the exclusive jurisdiction provision is to maintain uniformity of interpretation of those provisions of the Internal Revenue Code; and (3) that §1612(a) was intended to function 'in analogy' to its

> counterpart in the Organic Act of Guam-in their proper historical context as described in the previous decisions of this Court and the Third Circuit, we are compelled to conclude that in using the phrase "income tax laws applicable to the Virgin Islands" in §1612(a), Congress intended to refer specifically to the provisions of the Internal Revenue Code that apply to the Virgin Islands through the mirror tax system.

Willis v. People of the V.I., 2019 V.I. Supreme LEXIS 38, at *19 (July 11, 2019).

But broad Congressional policy shows federal interest in Virgin Islands local taxes.

2. Broad congressional policy reflect a federal interest in local taxes, supporting the District Court's exclusive jurisdiction

In the unanimous senate report for the Revision of the Virgin Islands Revised Organic Act, the Senate expressed broad policy recommendations regarding taxation in the Virgin Islands. Under the "Policy question presented," the Senate Committee urged the Senate to consider the "basic policy question" of exempting groups of "American citizens from making any contribution to the financial support of the American Government." U.S. Congress, Senate, REVISION OF THE ORGANIC ACT OF THE VIRGIN ISLANDS, Committee on Interior and Insular Affairs, Report No. 1271 (to Accompany S. 3378), 83d Cong., 2d sess., 1954, S. Rep. 1271, 4-5. The Committee addressed a question that persists till today:

> On the other hand, as against the principle that American citizens should support their government, the committee has had to face the fact that the Virgin Islands, after 37 years under the American flag, have not yet attained a sufficiently high state of development to enable them to

> support an American standard of living without special aid from the Federal Treasury.
>
> ....
>
> To far too great an extent, officials have been judged by what they have been able to obtain in the way of such handout from the Federal Government, rather than what contributions towards self-sufficiency and economic as well as political autonomy they were able to make to the people.

Id. at 5. Subsequently, the Committee made "Tax recommendations" as follows.

> Tax recommendations.
> The committee deems it in order to express the hope that the Virgin Islands legislature in its efforts to raise more local revenues so that a larger amount of the excise tax moneys will accrue to the Virgin Islands treasury, will not succumb to the temptation to take the easy way out by merely laying additional burdens upon business enterprises in the Virgin Islands. Tourism is perhaps the foremost income-producing activity in the Virgin Islands and is susceptible to much greater development. Tax burdens which could cause price rises in accommodations, goods, and services inevitably would drive tourists to competing foreign Caribbean resorts.

Id. In revising the Organic Act, Congress highlighted its interest in Virgin Islands' tax policy. Congress was concerned about local taxation and its effect on the American taxpayer and on the principle that each American citizen should support the American government. These interests support Congress's decision to vest jurisdiction exclusively in the District Court.

We cannot forget that if Congress wanted to confer jurisdiction over tax crimes to the Superior Court of the Virgin Islands, she could have done so by eliminating "exclusive jurisdiction" in the District Court "over all criminal and civil proceedings... with respect to the income tax laws applicable to the Virgin Islands." Congress did so in the Commonwealth of the Northern Marianas Islands (CNMI). 48 U.S.C. § 1801 (approving the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America").

II. THE CONVENANT TO ESTABLISH A COMMONWEALTH OF NORTHERN MARIANAS ISLANDS, 48 U.S.C. § 1801, DOES NOT VEST EXCLUSIVE JURISDICTION OVER TAX CRIMES IN THE DISTRICT COURT, PROVIDES FOR IMPOSITION OF TAXES BY LOCAL LAW. WHEN CONGRESS WANTS TO VEST JURISDICTION IN LOCAL COURTS, IT KNOWS HOW TO DO SO.

The Covenant governs the Commonwealth of the Northern Mariana Islands' ("CNMI") political relationship with the United States. 48 U.S.C. § 1801. It provides that the United States District Court for the Northern Mariana Islands ("NMI district court"), as a court established under Article IV of the United States Constitution, shall have the same jurisdiction as other United States District Courts. Covenant § 402(a), *codified as amended at* 48 U.S.C. § 1822. NMI District Court *does not* possess exclusive jurisdiction over tax matters. *Id.* Additionally, the Northern

Marianas Tax Act of 1984, as amended, vests jurisdiction upon the local superior court. 4 CMC § 1701(e); *but see* 48 U.S.C. § 1421i ("the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial income tax."). Section 601 is CNMI's "mirror code" system. *See* 26 U.S.C. § 931 (note); *see* 48 U.S.C. § 1421i (Guam); 48 U.S.C. § 1397 (Virgin Islands); 48 U.S.C. § 734 (Puerto Rico).

Covenant section 602, unlike the Revised Organic Act of the Virgin Islands, specifically authorizes the CNMI to enact additional local tax laws: "The Government of the Northern Mariana Islands may by local law impose such taxes, in addition to those imposed under section 601, as it deems appropriate and provide for the rebate of any taxes received by it . . . ." 48 U.S.C. § 1801 (note). The Virgin Islands Supreme Court erred because if Congress intended to vest jurisdiction over all income tax crimes in local courts, it knows how to do so.

III. THE CRIMES CHARGED IN THIS CASE MIRROR VIOLATIONS OF THE INCOME TAX PROVISIONS SET FORTH IN THE INTERNAL REVENUE CODE FURTHER DEMONSTRATING THE DISTRICT COURT'S CLEAR EXCLUSIVE JURISDICTION

This case originates from a three-count amended information. Petitioner was charged by the Virgin Islands with: Count I, conspiracy to evade or defeat tax in

violation of 33 V.I.C. § 1522; Count II, aiding and abetting the willful failure to collect or pay over tax in violation of 33 V.I.C. §1523 and 14 V.I.C. §11; and Count III, fraud and false statements in violation of 33 V.I.C. §1525(2). These crimes almost mirror the following United States tax crimes: 26 U.S.C. § 7201 (the local charge is conspiracy, otherwise the language is identical to the United States Code as the local statute 'conforms with and is patterned on 18 U.S.C. § 371 (1948)'"14 V.I.C. § 551. Revision notes 1957); 26 U.S.C. § 7202, Willful failure to collect or pay over tax; and 26 U.S.C. § 7206, Fraud and false statements. The texts of these crimes as they appear in the Virgin Islands Code and in the United States Code are as follows.

33 V.I.C. § 1522. Conspiracy to evade or defeat tax

> If two or more persons conspire to evade or defeat any tax imposed by this subtitle or by the Virgin Islands income tax law, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

33 V.I.C. § 1522

§ 7201. Attempt to evade or defeat tax.

> Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon

conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

26 U.S.C.S. § 7201.

14 V.I.C. § 551. Conspiracy.

If two or more persons conspire to—

(1) commit any crime;
(2) falsely and maliciously complain against another for any crime, or procure another to be charged or arrested for any crime;
(3) falsely move or maintain any action or proceeding;
(4) cheat and defraud any person of property by any means which are in themselves criminal, or to obtain money or property by false pretenses; or
(5) commit any crime injurious to the public health, the public morals, or for the perversion or obstruction of justice or due administration of the laws—
each shall be fined not more than $1,000 or imprisoned not more than 5 years, or both.
If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided by law for such misdemeanor.

14 V.I.C. § 551. This section conforms with and is patterned on 18 U.S.C. § 371 (1948). *Id.* (Revision note 1957).

18 U.S.C. § 371. Conspiracy to commit offense or defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof

in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.
If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

18 U.S.C. § 371

33 V.I.C. § 1523. Willful failure to collect or pay over tax

Whoever, being required by this subtitle or the Virgin Islands income tax law to collect, account for, and pay over any tax imposed by this subtitle or the Virgin Islands income tax law, willfully fails to collect or truthfully account for and pay over such tax, shall, in addition to other penalties provided by law, be fined not more than $10,000 or imprisoned not more than 5 years, or both, together with the costs of prosecution.

33 V.I.C. § 1523

§ 7202. Willful failure to collect or pay over tax.

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

26 U.S.C.S. § 7202

§33 V.I.C. § 1525 Fraud and false statements

Whoever—

(2) *Aid or assistance*. Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document;

33 V.I.C. § 1525

26 U.S.C.S. § 7206. Fraud and false statements.

Any person who—

(2) Aid or assistance. Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

26 U.S.C. § 7206

Obviously, the foregoing crimes are identical. Therefore, even based on Senator Weicker's remarks, jurisdiction is in the District Court because "the income tax laws applicable to the Virgin Islands are the provisions of the Internal Revenue Code" and "uniformity of interpretation requires that questions involving the

interpretation of those laws be litigated only in the Federal courts." 130 Cong. Rec. S23, 789 (daily ed. Aug. 10, 1984).

IV. THIS COURT HAS HELD REPEATEDLY THAT A TERRITORIAL COURT MUST OBSERVE SETTLED CONSTITUTIONAL AND STATUTORY NORMS

This Court has held repeatedly that a territorial court must observe national constitutional and statutory norms. *See, e.g., Kepner v. United States,* 195 U.S. 100, 133, 24 S. Ct. 797, 806 (1904)("We have no doubt that Congress must be held to have intended to have used these words in the well settled sense as declared and settled by the decisions of this court."); *Serra v. Mortiga*, 204 U.S. 470, 474, 27 S. Ct. 343, 345 (1907) ("It is further settled that the guarantees which Congress has extended to the Philippine Islands are to be interpreted as meaning what the like provisions meant at the time when Congress made them applicable to the Philippine Islands.").

The Court protected the right of Guamanians to have, within Guam's court system, the right of review by an Article III court. *Guam v. Olsen*, 431 U.S. 195, 201, 97 S. Ct. 1774, 1778 (1977) ("we should be reluctant without a clear signal from Congress to conclude that it intended to allow the Guam Legislature to foreclose appellate review by Art. III courts, including this Court, of decisions of

territorial courts in cases that may turn on questions of federal law."). Likewise, this Court rejected the contention that "unique circumstances of legal practice in the Virgin Islands," justified discriminating against non-resident attorneys seeking to practice in the Virgin Islands. *Barnard v. Thorstenn*, 489 U.S. 546, 558-59, 109 S. Ct. 1294, 1302-03 (1989) This Court wrote:

> In sum, we hold that petitioners neither advance a substantial reason for the exclusion of nonresidents from the Bar, nor demonstrate that discrimination against nonresidents bears a close or substantial relation to the legitimate objectives of the court's Rule. When the Privileges and Immunities Clause was made part of our Constitution, commercial and legal exchange between the distant States of the Union was at least as unsophisticated as that which exists today between the Virgin Islands and the mainland United States. Nevertheless, our Founders, in their wisdom, thought it important to our sense of nationhood that each State be required to make a genuine effort to treat nonresidents on an equal basis with residents. By extending the Privileges and Immunities Clause to the Virgin Islands, Congress has made the same decision with respect to that Territory.

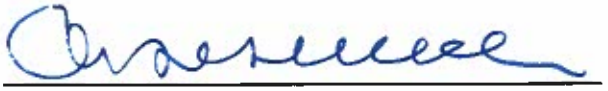
Id. The Virgin Islands Supreme Court erred in construing "income tax applicable to the Virgin Islands" in a manner that conflicts with well-settled sense of "income" and "tax" as declared and settled by the decisions of this Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wednesday, November 13, 2019



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