

**APPENDIX 1**

**List of Lower Court Cases**  
**Approved In *Snyder v. Marks***

1. *Howland v. Soule*, 12 F. Cas 743 (Cir. Ct. D. Cal.)(1868)

Facts and Question Presented: Excise tax. Suit against collector. Assessor had assessed fraud penalties for false returns. Taxpayer alleged assessor acted ultra vires. Did AIA apply when assessment was illegal?

Holding and Rationale: Yes. Otherwise, everyone would seek injunctions. “A person not pleased with a tax will readily conclude that it is illegal or erroneous, and a suit for injunction follows. His neighbor soon catches the infection, and the result would be that the wheels of government would be stopped by injunction and revenue would cease to flow into its treasury.” 12 F. Cas. at 744.

2. *Pullan v Kinsinger*, 20 F. Cas. 44 (Cir. Ct. S.D. Ohio)(1870)

Facts and Question Presented: Excise tax. Suit against collector. In obedience to reporting requirements, taxpayer reported 72 hour cycle for distillation on return. Assessor imposed much larger tax based on 48 hour cycle. Did AIA apply when assessment was illegal?

Holding and Rationale: Yes. To the extent AIA restates equity, equity would prevent such suit. To the extent AIA goes beyond equity, it protects the system of remedies, just as for customs: “Can it be supposed that after congress has carefully constructed a revenue system, with ample provisions

App. 2

to redress wrongs, that it intended to give the taxpayer and importer a further and different remedy? . . . the mischief which would result, forbids the idea that any other than the prescribed modes are open for the redress of wrongs.” 20 F. Cas. at 49.

3. *Robbins v. Freeland*, 20 F. Cas. 863 (Cir. Ct. E.D. NY)(1871)

Facts and Question Presented: Income tax. Suit against collector. Assessment alleged based on an unconstitutional statute. Did AIA bar suit when refund remedy was not available to taxpayer?

Holding and Rationale: Yes. No rationale given. Government counsel’s only reported argument was citation to *Pullan*.

4. *Delaware R. Co. v. Prettyman*, 7 F. Cas. 408 (Cir. Cr. D. Del)(1872)

Facts and Question Presented: Income tax. Suit against collector. Assessment on dividends. Did AIA apply when assessment was of a tax that other courts had judged to be illegal?

Holding and Rationale: Yes. Assessor had power to make the determination of liability. Once it “be admitted that the United States assessor had jurisdiction to inquire and determine on the propriety of making these assessments . . . the assessments and proceedings thereon are not nullities and cannot be resisted by injunction process.” 7 F. Cas. at 410. Dispute over legality of tax must be resolved through system of remedies created by Congress and “cannot be inquired of and determined in the form of suit now before the court.” *Id.* at 413.

App. 3

5. *U. S. v. Black*, 24 F. Cas. 1151 (Cir. Ct. S.D. NY)(1874)

Facts and Question Presented: Excise Tax. Suit against taxpayer's sureties to recover increase in tax based upon reassessment. Sureties defense was that reassessment was illegal. Did the AIA bar non-taxpayer sureties from raising this defense?

Holding and Rationale: Yes. Protection of the system requires AIA bar to extend to sureties: "It is as important for the government to receive payment promptly from the sureties as from the principal." 24 F. Cas. at 1154. Sureties have same refund remedy as taxpayer.

6. *Kissinger v. Bean*, 14 F. Cas. 689 (Cir. Ct. E.D. Wisc.)(1875)

Facts and Question Presented: Excise Tax for over \$236,000. Suit against collector. Taxpayer alleged assessment illegal because he was mere shareholder of corporate distiller and not proper person liable for tax. Did the AIA bar suit when taxpayer would not be able to pay and sue for refund?

Holding and Rationale: Yes. AIA is part of remedial scheme. "It does not, however, take away other remedies or all remedies. It simply deprives a party of the power to prosecute a suit for the purpose of enjoining the assessment and stopping the collection of the tax." 14 F. Cas. at 690. Further, the inability to pay in the present case did not change the result: "in passing upon a question of this character, the court must be guided by general principles, and cannot be controlled by exceptional cases." *Id.* Finally, the alleged illegality made no

App. 4

difference unless the taxpayer could show to a certainty that the assessor acted without authority.

7. *U. S. v. Pacific R.R.*, 27 F. Ca. 397 (Cir. Ct. E.D. Mo.)(1877)

Facts and Question Presented: Excise tax. Suit against taxpayer for assessed taxes. Taxpayer claims U.S. debt to it. Did the AIA prevent taxpayer from raising equitable set-off as defense?

Holding and Rationale: Yes. Otherwise, everyone might do it. AIA applies to the system of taxation: “The principle involved is this: That by setting up other debts, and cross-actions and counter-claims against the government, it would, in effect, be placing the existence of the government at the mercy of any person who chose to set up his right in this way, and thus hinder the collection of the taxes.” 27 F. Cas. at 398.

8. *Alkan v. Bean*, 1 Fed. Cas. 418 (Cir. Ct. E.D. Wisc.)(1877)

Facts and Question Presented: Excise tax. Suit against Collector. Collector sought to enforce tax lien on property. Owner sued to enjoin seizure and sale because owner was not the taxpayer but was an innocent purchaser. Did the AIA bar a suit by person other than the taxpayer

Holding and Rationale: Yes. “The scope of this section is not limited in terms to the party taxed. The evident purpose of the section is to prevent any interference with the prompt and regular collection of the revenue.” 1 Fed. Cas. at 421 (citations omitted).

9. *Kensett v. Stivers*, 10 F. 517 (Cir. Ct. S.D. NY)(1880)(written by then Circuit Judge Blatchford who, three years later as Justice Blatchford, wrote the opinion in *Snyder v. Marks*)

Facts and Question Presented: Excise tax for over \$233,000. Suit against Collector. Taxpayer alleged assessment illegal because she was innocent spouse of ex-husband taxpayer who had used her name without her knowledge or consent. Court found she did not know of the tax until 15 years after assessment when collection commenced against her property. Further, court found “Her grievance cannot be remedied by any action at law, as she cannot pay the large amount of the tax and sue to recover it back.” 10 F. at 520. Court further found that collection had been made and continued to be made from other parties also liable. Under these circumstances, did AIA bar her suit to enjoin collection from her property?

Holding and Rationale: Yes. Court reviewed all prior cases. Linked AIA to refund remedy. Immaterial that plaintiff here could not make use of the remedy. Such was not an exception to the AIA.

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## APPENDIX 2

**Federal Tax Revenues 1871-1874**

	<b>Customs Revenue</b>	<b>Internal Revenue</b>
1871 <sup>1</sup>	\$206,270,408.05	\$143,098,153.63
1872 <sup>2</sup>	\$216,370,286.77	\$130,642,177.72
1873 <sup>3</sup>	\$188,089,522.70	\$113,729,314.14
1874 <sup>4</sup>	\$163,103,833.69	\$102,409,784.90

1873 and 1874 collections from internal revenue continued to provide the same 37-40% of the overall revenue as in 1871 and 1872. Both customs *and* internal revenue dropped . . . in about the same proportions. Much of the drop was due to the Panic of 1873. *See* Annual Reports of the Secretary of the Treasury on the State of the Finances for the Year 1873, at XIII-IX; and for Year 1874, at XVII-XVIII.

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<sup>1</sup> Sec'y of the Treasury, Annual Report of the Secretary of the Treasury on the State of the Finances for the Year 1871, at V (1871).

<sup>2</sup> Sec'y of the Treasury, Annual Report of the Secretary of the Treasury on the State of the Finances for the Year 1872, at IV (1872).

<sup>3</sup> Sec'y of the Treasury, Annual Report of the Secretary of the Treasury on the State of the Finances to the Forty-Third Congress, First Session, at III (1873). The Panic of 1873 caused a considerable decrease in revenue. *Id.*

<sup>4</sup> Sec'y of the Treasury, Annual Report of the Secretary of the Treasury on the State of the Finances for the Year 1874, at III (1874).

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**APPENDIX 3**  
**Growth of Third-Party Information**  
**Return Requirements**

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6042</b> – Returns regarding corporate E&P Revenue Act of 1917, 39 Stat. 1000, 1003,	1917
<b>6045</b> - Returns of brokers, War Revenue Act, 40 Stat. 300, 336-37	1917
<b>6041</b> – Information at source, War Revenue Act, 40 Stat. 300, 337	1917
<b>6031</b> - Return of Partnership Income, Revenue Act of 1918, 40 Stat. 1057,1074	1918
<b>6032</b> – Returns of banks, Revenue Act of 1936, 49 Stat. 1648, 1708-09	1936
<b>6046</b> – Returns regarding foreign corporations, Revenue Act of 1938, 52 Stat. 447, 573-74	1938
<b>6043</b> – Liquidating, etc., transactions, Revenue Act of 1938, 52 Stat. 447, 516	1938
<b>6051</b> – Receipts for employees, SSA Amendments of 1939, 53 Stat. 1360, 1382-83	1939
<b>6033</b> – Returns by exempt organizations, Revenue Act of 1943, 58 Stat. 21, 36-37	1943

App. 8

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6034</b> – Returns by certain trusts, Revenue Act of 1950, 64 Stat. 906, 960	1950
<b>6044</b> – Returns regarding patronage dividends, Revenue Act of 1951, 65 Stat. 452, 492	1951
<b>6036</b> – Notice of qualification as executor or receiver, Internal Revenue Act of 1954, 68A Stat. 3, 744	1954
<b>6037</b> – Return of S corporation, Small Business Tax Revision Act, 72 Stat. 1606,1656	1958
<b>6038</b> – Info. re foreign corporations/partnerships, 74 Stat. 1010, 1014	1960
<b>6047</b> – Info. re certain trusts and annuity plans, 76 Stat. 809, 830	1962
<b>6048</b> – Info. re certain foreign trusts, Revenue Act of 1962, 76 Stat. 960, 988	1962
<b>6049</b> – Returns regarding interest, Revenue Act of 1962, 76 Stat. 960, 1055	1962
<b>6039</b> – Returns regarding certain options, Revenue Act of 1964, 78 Stat. 19, 73	1964



App. 9

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6052</b> – Returns regarding group-term life insurance, Revenue Act of 1964, 78 Stat. 19, 37	1964
<b>6053</b> – Reporting of tips, Social Security Amendments, 79 Stat. 286, 384	1965
<b>6057</b> – Annual registration, ERISA, 88 Stat. 829, 943	1974
<b>6058</b> – Info. re deferred compensation ERISA, 88 Stat. 829, 945	1974
<b>6059</b> – Periodic report of actuary, ERISA, 88 Stat. 829, 947	1974
<b>6050A</b> – Reporting from certain fishing boat operators, Tax Reform Act, 90 Stat. 1520, 1707-08	1976
<b>6060</b> – Reporting from tax return preparers Tax Reform Act, 90 Stat. 1520, 1691	1976
<b>6050B</b> – Returns re unemployment compensation, Revenue Act of 1978, 92 Stat. 2763, 2777	1978
<b>6050D</b> – Returns re energy grants and financing, Crude Oil Windfall Profit Tax Act, 94 Stat. 229, 259	1980
<b>6050E</b> – State/local income tax refunds TEFRA, 96 Stat. 324, 603	1982

App. 10

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6050F</b> – Returns re social security benefits Social Security Amendments, 97 Stat. 65, 82	1983
<b>6050G</b> – Returns re railroad retirement benefits, Railroad Retirement Solvency Act, 97 Stat. 411, 422	1983
<b>6050H</b> – Returns re mortgage interest Deficit Reduction Act, 98 Stat. 494, 684	1984
<b>6050I</b> – Returns re cash received in trade or business, Deficit Reduction Act, 98 Stat. 494, 685	1984
<b>6050J</b> – Returns re foreclosures . . . of security Deficit Reduction Act, 98 Stat. 494, 687	1984
<b>6050K</b> – Returns re exchanges of certain interests, Deficit Reduction Act, 98 Stat. 494, 689	1984
<b>6050L</b> – Returns re certain donated property Deficit Reduction Act, 98 Stat. 494, 692-93	1984
<b>6050M</b> – Returns re contracts from Federal agencies, Tax Reform Act, 100 Stat. 2085, 2747	1986
<b>6050N</b> – Returns re payments of royalties Tax Reform Act, 100 Stat. 2085, 2747	1986

App. 11

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6050P</b> – Returns re cancellation of indebtedness, Budget Reconciliation Act, 107 Stat. 312, 531	1993
<b>6050Q</b> – Certain long-term care benefits HIPAA, 110 Stat. 1936, 2062	1996
<b>6050R</b> – Returns re certain purchases of fish, Small Business . . . Act, 110 Stat. 1755, 1763	1996
<b>6050S</b> – Returns re higher education tuition, Taxpayer Relief Act, 111 Stat. 788, 804	1997
<b>6050T</b> – Returns re health insurance costs, Trade Act of 2002, 116 Stat. 933, 962	2002
<b>6050U</b> – long-term care insurance contracts, Pension Protection Act, 120 Stat. 780, 1012	2006
<b>6050V</b> – Returns re certain insurance contracts, Pension Protection Act, 120 Stat. 780, 1072	2006
<b>6050W</b> – Returns re transaction settlement payments, Housing . . . Recovery Act, 122 Stat. 2654, 2908	2008
<b>6055</b> – Reporting health insurance coverage	2010

App. 12

<b>Current Section, Added By</b>	<b>Year Added</b>
<b>6056</b> – Employers reporting health insurance coverage, PPACA, 124 Stat. 119, 256	2010
<b>6035</b> – Basis information reporting, 129 Stat. 433, 455	2015
<b>6050X</b> – Info. re certain fines, penalties, Tax Cuts and Jobs Act, 131 Stat. 2054, 2128	2017
<b>6050Y</b> – Returns re certain life ins. k transactions, Tax Cuts and Jobs Act, 131 Stat. 2054, 2149	2017

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**APPENDIX 4****Growth of AIA Statutory Exceptions**

<b>Exception</b>	<b>Added</b>	<b>Related Remedy, Exception Added By</b>
6212(a) 6213(a)	1926	to contest proposed deficiencies of income, estate and gift taxes, 44 Stat. 9, 55 & 75
7426(a)	1966	to contest wrongful levy, 80 Stat. 1125, 1143
6694(c)	1976	to contest collection of Chapter 68B return preparer penalty when taxpayer pays 15% of assessed penalty and timely files refund claim, 90 Stat. 1520 1689
7429(b)	1976	to contest jeopardy assessment, 90 Stat. 1520, 1695
6672(c)	1978	to contest proposed Chapter 68B Trust Fund Recovery Penalty, 92 Stat. 3627, 3633
7436	1997	to contest employee status determination, 111 Stat. 788, 1056
6015(e)	1998	to request spousal relief, 112 Stat. 685, 738

App. 14

<b>Exception</b>	<b>Added</b>	<b>Related Remedy, Exception Added By</b>
6330(e)(1)	1998	to contest administrative collection decisions, as well as underlying liability in situations where taxpayer had no pre-assessment opportunity to contest liability, 112 Stat. 685, 749
6331(i)	1998	to contest paid portion of divisible tax, 112 Stat. 685, 759
6232(c)	2015	to contest proposed changes to partnership returns, 129 Stat. 584, 633

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