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===== Start of Answer #1 (1903 words) =====

1. Frito's claims against the state

14th Amendment Substantive Due Process:

Under the 14th Amendment to the US Constitution, the state government cannot abridge a person's right to life, liberty, or property without due process of law. Frito will argue what when the State Government enacted a law which changed the tax rate, the effected a substantial right to his property, and in effect the government could not do so.

Under the 14th amendment, the legislature cannot enact laws that would infringe on the rights of their citizens. Personal fundamental rights, such as the right to privacy, travel, marriage, etc. are given the most fundamental protection. These are called fundamental rights which are guarded by the US Courts by a strict scrutiny standard; where the court would have to go to extreme ends to show that there is a fundamental state need to abridge these rights and that there was no less invasive way to meet those ends.

However, Frito's claim is one of an economic right. The US courts have held that when a legislature changed the law that invades an economic right, the legislature is only held to a rational basis test. As long as the legislature isn't doing something that would infringe on the fundamental personal rights and are not violating an equal protection principle, it would be very difficult for Frito to succeed in his claim.

The government will argue that the tax increase was not violative of the 14th Amendment. The tax was approved in the proper form, and was an equalization effort, which brought everyone to equal footing. Further, this tax was enacted to further a legitimate state purpose. The state was in a budgetary crisis and was handling this how the legislature best saw fit. The Government will argue that this falls within the rational basis test required by the 14th amendment.

8th Amendment:

Under Frito's criminal penalty, he will argue an 8th Amendment violation. Under the 8th Amendment, as applicable to the states via the 14th Amendment, the government cannot inflict cruel or unusual punishment or give excessive fines.

Frito will argue that for a business man who makes \$110,000 a year, a fine of \$100,000 on top of outstanding tax debt is excessive and would not be permissible under the 8th amendment.

However, the government would argue that Frito committed a knowing violation of the state tax law and actually refused to pay any taxes. Had he payed what he would have paid before the tax increase and attempted to litigate over the increases, the state would most likely be in violation of the 8th amendment. However, he did not attempt to litigate, and instead effectuated an illegality, which would make the fine more reasonable.

2. Frito's Claim against the federal tax law:

5th Amendment Claim:

Under the 5th Amendment of the US Constitution, the Federal Government cannot abridge the rights of life, liberty, and property without due process of law.

Frito will argue that the US Government cannot enforce a law that would effectually force him to pay a higher tax rate without going through the due process of law.

However, his claim would fail because the Congress has the power to pass laws that change taxes and tax rates. This provided the due process of law and a private citizen cannot challenge the laws enacted by Congress.

Taxing Power:

Under Article 1, § 8, Congress is vested with the power to lay and collect taxes. Under the Necessary and Proper Clause, Congress can enact laws which it deems are necessary and proper for the health, safety, and welfare of the citizens.

In order for a law to be effective, it has to pass by a majority of each house and has to be signed by the president. The facts of the case show that the Tax was enacted legally. However, taxes are designed to be for the general welfare, health, and safety of the citizens and to provide for the necessities of the culture, or taxes can be revenue raising, designed for certain projects.

Standing:

The Federal Government will argue that Frito does not have standing to argue this case. In order for one to have standing, one would have to have injury, causation, and redressibility. Frito would argue that he was injured by the tax initiative, in that his taxes went up after the tax initiative changed. He would further argue that the causation was created when the government changed the tax plans. Further, he would argue that it is redressible because the court could make a decision and change the tax frames back to where they were.

The government would argue that he would simply be a taxpayer challenging under a taxpayer standing. Taxpayer standing is typically only allowed when a taxpayer is arguing against his taxes being used for something that would violate his 1st Amendment right to freedom of religion (such as the government funding a religious school). That is not the case in the present situation. The government is not funding anything that would violate his 1st amendment right to freedom of religion, thus the taxpayer standing would fail.

Political Question:

The Federal Government would argue that the Federal Courts cannot hear this case because it falls under the Political Question doctrine. Under the political question doctrine, the federal courts cannot hear a case that would decide an issues which falls under the strict purview of another branch of government and thus violate the Separation of Powers Doctrine. Under Article 1 § 8 of the US Constitution, the power to law and collect taxes is vested solely with Congress. Therefore, the Judiciary would be

unable to render a decision that would take away power that is vested with another branch of government unless it is violative of the Constitution.

3. Is the Federal Tax suspect in light of the rules regarding treaty ratification?

Treaty Power

Under Article 2 of the Constitution, the Treaty power is vested with the President of the United States. The President has the right to enter into treaties with foreign nations at his will, however, in order for a treaty to be valid, there must be a 2/3 approval of the Senate for the treat to take effect, unless the treaty is self-executing. For a treaty to be self-executing, it must be able to take effect without Congress having to pass in additional laws. In the present case, it does not appear to be self-executing because the President would not have had the financial support for the treaty without the execution of the tax laws.

The facts are silent on whether or not the Senate approved the treaty. The circumstantial facts of the case lead us to presume that the Senate approved the treaty because the tax law was enacted and 1/6 of the tax money wad dedicated to the treaty initiatives. It appears that Senate would have been aware that the tax money they were approving was being partially diverted to this program.

However, if the Senate has not approve the treaty, the treaty would be invalid and the money could not be diverted to this program. The only repercussions that the UN would have against the United States would be to wage war against us, which would be an extremely unlikely outcome.

4. The Effect of Frito's Pardon

Pardon Power:

As Chief Executive, the President has a vested power to pardon anyone for crimes committed against the United States and violative of any laws. The President would

clearly be within his right to pardon Frito of these crimes.

Case in Controversy:

By pardoning Frito, the President would effectively remove these cases from the judicial purview. In order for a court to make a judicial decision, there must be a case in controversy, one in which there is an active victim who is being threatened by immediate harm. By pardoning Frito, the President removes the case in controversy because there is nothing to adjudicate any longer, Frito is no longer a "victim" and is a pardoned person.

Frito will argue that he is still a victim, as the tax law is still being upheld and he will still be required to pay these heightened taxes, which in a year could put him back into the same turmoil that he started in. Further, he doesn't need a criminal pardon for the Federal Action. A criminal pardon would do nothing for him seeking to challenge the federal tax. So, there is still a case in controversy for Frito on the constitutional Federal and State Tax challenges, but not to his criminal appeal.

Mootness:

The Government will next argue that the case is now moot, in that since the President pardoned Frito, it is no longer necessary to decide the case because the decision made would not apply to him. In effect, by eliminating the case in controversy, it rendered the case moot and non-judicial by the courts.

Frito however, will argue that this may apply to his state criminal appeal, but it would not apply to his constitutional challenges to the tax initiatives themselves.

Collateral Consequences:

Frito will argue that even if the court finds that the pardon makes his claim moot, that he should still be allowed to challenge it under the collateral consequences rule. Similar to the abortion cases, the fact that the case was now moot, the claimant was still

allowed to finish the suit if dismissing the claim would have a serious effect on others in a similarly situated position. Frito will argue that although his claim may be over with as he was pardoned, any people similarly situated would be held under these strict tax rules and it would further burden the court if they each came in to attempt to litigate them.

5. Joe's Claim against Frito and Constitutional Arguments

Preemption:

Joe will argue that the State Bankruptcy law was in clear violation of the Preemption doctrine. Under the Preemption Doctrine, the Federal Law is the law of the land, and through the 10th Amendment, the Constitution gives the states the right to enact any laws in which Congress has not vested with itself.

There are two types of preemption: Conflict Preemption and Field Preemption. A conflict preemption occurs when there is a federal law and a state law which are in conflict. In that case, the federal law will control as the state law is preempted. A field preemption occurs when Congress controls a whole "field" or area of legislation. Any state laws attempting to conflict with the Preemption doctrine would be invalid. Bankruptcy has always been clearly within the control of the federal government. There has been a field preemption over the bankruptcy laws.

Therefore, these state laws which were enacted to clear the debts and obligations of the citizens of the state would clearly be invalid and violative of the preemption doctrine. Therefore, the release of the debt would be held invalid.

Contracts Clause:

The change in the bankruptcy laws in this case would also be violative of the contracts clause of the US Constitution. Under the contracts clause, the government cannot enact any laws which would infringe on the right of the parties entering into or enforcement of contracts. By attempting to change the state law, the government would

impair the right of Joe to enter into and enforce the contract that he had with Frito and were therefore violate the Contracts Clause.

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==== End of Answer #1 =====

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===== **Start of Answer #2 (1322 words)** =====

1. Mandated Purchases of Guns:

In the present situation, the government cannot enforce a law requiring each person to purchase a weapon. The US Constitution guarantees each individual person with inalienable rights that cannot be taken away, nor can they be infringed by the government.

While it is true that Congress does have the power to enact laws. It takes a majority approval in each the house and the senate, then a signature by the President, which all appear to be present in this case. However, Congress cannot enact laws which violate the constitution and the various principles that our nation was based on.

1st Amendment Rights:

Included in the 1st Amendment is a person's right to free speech, association, and religion. The forcible purchase of a gun would potentially violate each of these rights for individuals. There are many pacifists, and those who do not believe in weapons and violence. This law would clearly contravene their 1st amendment rights. Further, there are many religions that band the use and ownership of weapons, and this law would clearly contravene their 1st Amendment rights as well.

2nd Amendment Rights:

Included in the 2nd Amendment rights is the *right* to bear arms. It is a right, meaning that one can choose to do it, but he or she is not required to do it. By obligating the citizens to purchase weapons, it would be in clear violation of the constitution.

Substantive Due Process:

Each and every citizen of the United States has substantive due process rights, meaning that the Government cannot enforce a law that would abridge a person's life, liberty, or property without due process of law. Under a strict scrutiny test, the government cannot abridge one's right to privacy, association, travel, marriage, etc, unless there is almost an absolute necessity and that there is no less intrusive way to effectuate the ends desired.

Under the present case, it would fail under a strict scrutiny test. The Government has many, less intrusive means to effectuate an active military. Congress is vested with many powers, such as Commerce, Taxing, Spending, War and Treaty powers. If they wanted a stronger military, they could increase taxes, changed spending from one area back to the military. They could declare a war and increase taxes in order to fund the war. What they cannot do, however, is enact a law requiring all persons between a certain age to join the national guard to and to buy weapons. That would directly contravene the United States Constitution.

2. Weapon Preemption

Preemption Doctrine

The US Constitution makes it clear that the Federal Law is the Supreme law of the land under the Supremacy Clause and that no state law can directly conflict with Federal Law and be enforceable.

Under the preemption doctrine, there are two types of preemption: Conflict Preemption and Field Preemption. Under conflict preemption, this occurs when there are two laws,

one federal and one state, that directly conflict with one another. Under conflict preemption, the federal law will preempt a state law that is in direct conflict. Field preemption is where Congress has preempted an entire field, such as Bankruptcy Law or Admiralty Law, where state cannot make law that conflicts with federal law.

Laws regarding weaponry has always typically by on a conflict preemption basis. The federal law is clear, under the *2nd Amendment* that each and every person has the right to bear arms. However, case law and shown as well as federal law, that certain weapons have been allowed to be restricted under state laws and that state law can abridge some 2nd amendment rights. As we have seen, there are vastly different weapons laws in each and every state.

The preemption we are talking about is this case comes up under a question of this new congressional act. If the act were valid, it would preempt any state law regarding the rights of the citizens to purchase these weapons. However, beings that this federal regulation appears to be invalid, there would be no preemption question.

3. Po and the Dormant Commerce Clause

Commerce Power

Under Article 1 of the US Constitution, Congress is given the power to make and enforce any and all laws governing Commerce. The Federal Government is charged with regulating the modes of congress, the roadways, navigation systems, etc,.. they are also charged with regulating the instrumentalities of commerce, such as the planes, trains, and automobiles. They are charged with regulating anything that effects interstate commerce.

Dormant Commerce Clause:

Under the 10th Amendment, the states are vested with the power to enact any and all laws that Congress has not vested with themselves. Under the 10th Amendment, they can regulate commerce within their state, but they cannot regulate it in a way as to

interfere with interstate commerce as that would run afoul of the dormant commerce clause.

The courts have vastly construed these rules in favor of protecting interstate commerce. If a law is facially discriminatory, it is per se invalid and unenforceable unless there is a protected state interest that is trying to be enforced and that the state cannot protect this interest with any less discriminatory means.

Po would argue that his arrest would violate the dormant commerce clause because the power to regulate items in commerce is vested with Congress and not with the state. He would argue that the state could not make a law that effects items within the mode of commerce and that only Congress could enact these laws.

4. Oogway's Article 4: P & I Defense:

Privileges and Immunities:

Under the Privileges and Immunities Clause under Article 4 of the Constitution, the government is prohibited from enacting any laws that impair the privileges and immunities of the citizens of the various states. Under this clause, the government on one state cannot enact a law that would treat a citizen from another state differently than a citizen from their own state.

Oog will argue that the state law banning him from selling ammunition in California runs afoul of the Privileges and Immunities Clause because his is hindered and prevented from selling ammunition in California where a resident from California is not similarly hindered.

The state would respond that they have an interest in protecting the people in California where they can regulate the purchase of the ammunition, and they can similarly regulate the manufacture of the ammunition and the quantities sold to individuals. If the State can convince the court that they have a legitimate state interest in the regulation of the ammunition, then they would not run afoul of the privileges and immunities clause of the Constitution.

5. Po's Rights Upon Arrest

2nd Amendment Violation:

Under the 2nd Amendment of the United States, a person has the right to bear arms. Under the new Congressional Mandate, Po believed that he had the right to own the weapon that he purchased, and that he had a 2nd Amendment right to possess this firearm.

4th Amendment Violation:

Under the 4th Amendment, Po has a right to be secure in his person, property and residence from unreasonable searches and seizure. Vachir could have potentially violated this by arresting Po.

State Actors:

It is unclear under the facts whether or not Vachir is a police officer or some other government official. If Vachir is not a government official, Po cannot bring a suit against him for a violation of his constitutional right unless there is a substantial nexus between the private citizen and the state actor. A nexus has been found in different situations; where the government has citizens working for them, or induces private citizens to do work for them.

In the present case, it states that Vachir arrested Po, indicating that he is an official of some part of the government, as he had the power to arrest both Po and Oogway. This appears to be the substantial nexus between Vachir and a state official.

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END OF EXAM

