

THE "TRADE OR BUSINESS" SCAM











-  [Web capture of this article](#)-Right click and select "save As" to download an Adobe Acrobat copy of this important article
-  [Memorandum of Law of this article](#) -(OFFSITE LINK) Includes the entire content of this article PLUS tables of authorities and questions at the end. Designed to attach to legal pleadings. Right click and select "save As" to download an Adobe Acrobat copy of this important article

Table of contents:

1. [Scope](#)
2. [Overview of the Income Taxation Process](#)
3. [Proof IRC Subtitle A is primarily an excise tax on activities in connection with a "trade or business"](#)
4. [Synonyms for "trade or business"](#)
 - 4.1 ["wages"](#)
 - 4.2 ["personal services"](#)
 - 4.3 ["United States"](#)
 - 4.4 [Statutory "citizen of the United States" or "U.S. ** citizen"](#)
5. [I.R.C. requirements for the exercise of a "trade or business"](#)
6. [Why I.R.C. Subtitle A income taxes are "indirect" and Constitutional](#)
7. [Who's "trade or business": The PAYER, the PAYEE, or BOTH?](#)
8. [Willful government deception in connection with a "trade or business"](#)
9. [Proving the government deception yourself](#)
10. [How nonresidents in the states of the Union are deceived and coerced to enlist in the scam](#)
11. [False IRS presumptions that must be rebutted](#)
12. [Legal requirements for holding a "public office"](#)
13. [De Facto Public Officers](#)
14. [How do ordinary government workers not holding public office become "taxpayers"](#)
15. [Methods for Connecting You To the Franchise](#)
 - 15.1 [Reductions in Liability: Graduated Rate of Tax, Deductions, and Earned Income Credits](#)
 - 15.2 [Information Returns](#)
 - 15.3 [Government Identifying Numbers: SSN and TIN](#)
 - 15.4 [Domicile, Residence, and Resident Tax Returns such as IRS Form 1040](#)
16. [How to prevent being involuntarily or fraudulently connected to the "trade or business" franchise](#)
17. [Other important implications of the scam](#)
18. [Why the IRS and the Courts WON'T Talk about what a "trade or business" or "public office" is and collude to Cover Up the Scam](#)
19. [Conclusions and Summary](#)
20. [Further Study](#)

Related articles:

-  [Income Tax Reality Check: Income Tax is slavery](#)-proves that the government thinks of you as their property. Assuming you are engaged in a "trade or business" is their method of doing that
- [The Information Return Scam](#) -excellent!
- [State Created Office of "Person"](#) -how you surrendered sovereign immunity to become a "person", "subject", "citizen", or "resident" of the state
- ["Public" v. "Private" Employment: You Really Work for Uncle Sam if you Receive Federal Benefits](#)-fascinating and true
-  [Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037](#) (OFFSITE LINK)-By [SEDM](#)
-  [Government Instituted Slavery Using Franchises, Form #05.030](#) (OFFSITE LINK)-describes how franchises such as the "trade or business" franchise work generally. By [SEDM](#)
-  [Meaning of the Words "includes" and "including"](#) -describes how government and legal profession violate the rules of statutory construction to enrich themselves, including with the word "trade or business"
-  [Policy Document: Pete Hendrickson's "Trade or Business" Approach, Form #08.001](#) (OFFSITE LINK)-describes differences in approach between this website and [Pete Hendrickson's Lost Horizons website](#). By [SEDM](#)
- [A Treatise on the Law of Public Offices and Officers](#) (OFFSITE LINK) -Floyd Mechem, 1890. Google Books. Excellent.
- [Treatise on the Law of Agency](#) (OFFSITE LINK) - Floyd R. Mechem, 1889. Google Books. Excellent!
-  [Officers of the United States Within the Meaning of the Appointments Clause, U.S. Attorney Memorandum Opinion](#)-describes what the U.S. government thinks a "public officer" is
-  [Information Return FOIA: "Trade or Business", Form #03.023](#) (OFFSITE LINK)-use this as a "reliance defence" to develop evidence that the government KNOWS you are not engaged in a "trade or business" and is committing a crime by not admitting it.. By [SEDM](#)
-  [Why Your Government is a Thief or You Are a "public officer" for Income Tax Purposes, Form 05.008](#) (OFFSITE LINK)-proves that nearly all "taxpayers" within I.R.C. Subtitle A are "public officials" engaged in a "trade or business". [SEDM Forms page](#)
- [Pete Hendrickson about the meaning of "Income"](#) (**VERY IMPORTANT!**)-the John Clifton Show, Google Video
 - [Video](#)

- [Audio](#) (MP3, 28 Minutes)
- [Minimum Qualifications for Public Office](#) (OFFSITE LINK) - Alabama Secretary of State's office
- [Eligibility for Public Office](#) (OFFSITE LINK) - Wikipedia

Remedies:

- [Federal and State Tax Withholding Options for Private Employers](#) - describes options for lawfully exiting federal and state tax roles
- [Demand for Verified Evidence of "Trade or Business" Activity: Information Return Form #04.007](#) (OFFSITE LINK)-form to give to employers and financial institutions who are illegally preparing W-2's, 1042-S', 1098's, and 1099's. [SEDM Forms page](#)
- [Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report \(CTR\), Form #04.008](#) (OFFSITE LINK)-form to give to financial institutions who are illegally preparing CTR's. [SEDM Forms page](#)
- ["trade or business" defined](#)-Sovereignty Forms and Instructions: Cites by Topic
- [About IRS W-8BEN, Form #04.202](#) (OFFSITE LINK)-how to change your status to nonresident alien
- [Corrected Information Return Attachment Letter, Form #04.002](#) (OFFSITE LINK)-attach this to corrected information returns you send into the IRS. [SEDM Forms page](#)
- [Correcting Erroneous Information Returns, Form #04.001](#) (OFFSITE LINK)-how to correct most information returns. Incorporates the following four documents. [SEDM Forms page](#)
- [Correcting Erroneous IRS Form 1042s, Form #04.003](#) (OFFSITE LINK)-how to remove the false presumption that income on a 1042 is connected with a "trade or business". [SEDM Forms page](#)
- [Correcting Erroneous IRS Form 1098s, Form #04.004](#) (OFFSITE LINK)-how to remove the false presumption that income on a 1098 is connected with a "trade or business". [SEDM Forms page](#)
- [Correcting Erroneous IRS Form 1099s, Form #04.005](#) (OFFSITE LINK)-how to remove the false presumption that income on a 1099 is connected with a "trade or business". [SEDM Forms page](#)
- [Correcting Erroneous IRS Form W-2s, Form #04.006](#) (OFFSITE LINK)-how to remove employment earnings from being connected with a "trade or business". [SEDM Forms page](#)
- [Precious Metal Transaction Reporting, Form #04.106](#) (OFFSITE LINK) -use this pamphlet to educate precious metal and coin dealers to prevent them from illegally and fraudulently filing false reports against you

Related law:

- [26 U.S.C. §7434: Civil Damages for Fraudulent Filing of Information Returns](#)
- [26 U.S.C. §7207: Fraudulent Returns, Statements, and Other Documents](#)
- [18 U.S.C. §912: Falsely impersonating an officer \[PUBLIC OFFICER\] or employee of the United States](#)
- [26 U.S.C. §6041: Information at source](#)-Cornell. Shows that you must have "trade or business" earnings to have reportable income under the I.R.C.
- [26 U.S.C. §6721: Failure to Correct Information Returns](#)
- [26 CFR §1.6041-1: Return of information as to payments of \\$600 or more](#)-GPO website. Shows that information returns are only required in the case of "trade or business" earnings
- [26 CFR §1.6049-5: Interest and original issue discount subject to reporting after December 31, 1982](#)-reporting of interest connected to trade or business

SOURCE:

[Great IRS Hoax](#), section 5.6.12

"The taxpayer-- that's someone who works for the federal government but doesn't have to take the civil service examination."

[President Ronald W. Reagan]

1. Scope

One must be engaged in a "[trade or business](#)", which is defined as "the functions of a [public office](#)", within the statutory but not constitutional "[United States](#)**", which is defined as federal territory, in order to earn "gross income". The only exception to this is nonresident aliens with income from the statutory "United States**" (federal territory) under [26 U.S.C. §871](#)(a). This is because:

1. The income tax under Subtitle A of the Internal Revenue Code is an [indirect excise tax](#), as the Supreme Court pointed out repeatedly. See section 5.1.3 of the [Great IRS Hoax](#), Form #11.302 The "subject of" all indirect excise taxes are voluntary "taxable activities" that are privileged and in many cases licensed. The tax may only be instituted by the agency or government entity that issues the license or bestows the privilege to the person who volunteers to be the "licensee", and the tax is only enforceable within the legislative jurisdiction of the taxing entity. The "privileged activity" in this case of the federal income tax under Subtitle A of the Internal Revenue Code is that of holding "[public office](#)" in the U.S. Government. A "public office" is therefore the *only* excise taxable activity that a biological person can involve themselves in that will make them the subject of the municipal donation program for the District of Columbia called the Internal Revenue Code.

2. According to [4 U.S.C. §72](#), all "public offices" may be exercised ONLY in the District of Columbia and not elsewhere, except as "expressly provided by law". That is why the "United States" is defined in Subtitle A of the I.R.C. as federal territory in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and [4 U.S.C. §110\(d\)](#). There is also no provision of law which authorizes "public offices" outside the District of Columbia other than [48 U.S.C. §1612](#), and therefore, the I.R.C. Subtitle A Income tax upon "public offices" can apply nowhere outside the District of Columbia other than the Virgin Islands. This is also consistent with the definition of "U.S. sources" found in [26 U.S.C. §864\(c\)\(3\)](#), which identifies all earnings originating from the "United States" as "effectively connected with the conduct of a trade or business".
3. "Income" has the meaning it was given in the Constitution, which is "gain and profit" in connection with an excise taxable activity. Congress is forbidden to define the word "income" because the Constitution defines it. This was pointed out by several rulings of the U.S. Supreme Court, including *Eisner v. Macomber*, [252 U.S. 189](#) (1920); *So. Pacific v. Lowe*, [247 U.S. 330](#) (1918); *Merchant's Loan & Trust Co. v. Smietanka*, [255 U.S. 509](#) (1921). Where there is no "taxable activity", there can be no "taxable income". We covered this earlier in sections 5.6.5 if you want more detail.
4. Because all "taxpayers" under Subtitle A of the I.R.C. are "public officers" and work for a federal corporation called the "United States" (see [28 U.S.C. §3002\(15\)\(A\)](#)), then they are acting as an "officer or employee of a federal corporation" and they:
 - 4.1. Are the proper subject of the penalty statutes, as defined under [26 U.S.C. §6671\(b\)](#). This is true even though the Constitution prohibits "Bills of Attainder" in [Article 1, Section 10](#), because the penalty isn't on the natural person, but upon the "office" or "agency" he volunteered to maintain in the process of declaring that he has "taxpable income".
 - 4.2. May have the code enforced against you without implementing regulations as required by [44 U.S.C. §1505\(a\)\(1\)](#) and [5 U.S.C. §553\(a\)\(2\)](#)
 - 4.3. Are the proper subject for the criminal provisions of the Internal Revenue Code, which identify officers of corporations as the only "persons" within [26 U.S.C. §7343](#)
5. Earnings not connected with a "trade or business" under [26 U.S.C. §871\(b\)](#) and [26 U.S.C. §864](#) and not originating from the statutory "United States*" (federal territory):
 - 5.1. Are identified as part of a "foreign estate" in [26 U.S.C. §7701\(a\)\(31\)](#). A foreign estate is not includible in gross income either, based on the definition of "foreign estate", BECAUSE it is not connected with a "trade or business".
 - 5.2. Are not includible as "gross income" if paid by a nonresident alien. See [26 U.S.C. §864\(b\)\(1\)\(A\)](#). Remember: The Great IRS Hoax showed in sections 5.2.13 and 5.6.15 that states of the union are "foreign countries" with respect to the Internal Revenue Code and all of their inhabitants are "nonresident aliens".

This means one must be engaged in a "public office" in the District of Columbia in order to earn "gross income" as a human being. Statutory and not ordinary "gross income" that meets this criteria is described in the code simply as "income effectively connected with a trade or business from sources within the United States". This is confirmed by [26 U.S.C. §7701\(a\)\(31\)](#), which says that an estate that is in no way connected with a "trade or business" and whose sources of income are outside the statutory but not constitutional "United States*" (federal territory) may not have its earnings identified as statutory "gross income" and is a "foreign estate", which means it is not subject in any way to the provisions of the Internal Revenue Code:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)
[Sec. 7701. - Definitions](#)

(a)(31) Foreign estate or trust

(A) Foreign estate

The term "foreign estate" means an estate the income of which, from sources without the United States [under [26 U.S.C. §871\(a\)](#)] which is not effectively connected with the conduct of a trade or business within the United States [under [26 U.S.C. §871\(b\)](#) and [26 U.S.C. §864](#)], is not includible in gross income under subtitle A.

Why did Congress HAVE to place the tax upon an activity called a "public office" in the United States government? Because:

1. The government can only pass civil laws to regulate its own public officers, territory, franchises, and property. The ability to regulate the PRIVATE conduct of the public at large is "repugnant to the constitution", as held by the U.S. Supreme Court. See the following for proof:

[Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037](#)
<http://sedm.org/Forms/FormIndex.htm>

2. The Thirteenth Amendment outlaws involuntary servitude EVERYWHERE, including on federal territory. It does not and cannot outlaw VOLUNTARY servitude. The only way they can tax your labor without instituting slavery is for you to volunteer for public office franchise in the government. See the following for proof:

[How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor, Form #05.026](#)
<http://sedm.org/Forms/FormIndex.htm>

3. Congress has no legislative jurisdiction within states of the Union, which are "foreign states" that are sovereign, but they have jurisdiction over anyone that contracts with them wherever they are. Hence, Congress instituted a franchise that functions as a contract that they can enforce anywhere the contractors are found. See the following for proof:

Debitum et contractus non sunt nullius loci.
Debt and contract [franchise agreement, in this case] are of no particular place.

Locus contractus regit actum.
The place of the contract [franchise agreement, in this case] governs the act.
[Bouvier's Maxims of Law, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

*"It is generally conceded that **a franchise is the subject of a contract between the grantor and the grantee, and that it does in fact constitute a contract when the requisite element of a consideration is present.**[1] Conversely, a franchise granted without consideration is not a contract binding upon the state, franchisee, or pseudo-franchisee.[2] "*
[American Jurisprudence 2d, Volume 36, Franchises, Section 6: As a Contract]

[1] Larson v. South Dakota, 278 U.S. 429, 73 L.Ed. 441, 49 S Ct 196 ; Grand Trunk Western R. Co. v. South Bend, 227 U.S. 544, 57 L.Ed. 633, 33 S.Ct 303; Blair v. Chicago, 201 U.S. 400, 50 L.Ed 801, 26 S Ct 427; Arkansas-Missouri Power Co. v. Brown, 176 Ark 774, 4 SW2d 15, 58 ALR 534; Chicago General R. Co. v. Chicago, 176 Ill 253, 52 NE 880; Louisville v. Louisville Home Tel. Co., 149 Ky 234, 148 SW 13; State ex rel. Kansas City v. East Fifth Street R. Co. 140 Mo 539, 41 SW 955; Baker v. Montana Petroleum Co., 99 Mont 465, 44 P2d 735; Re Board of Fire Comrs. 27 NJ 192, 142 A2d 85; Chrysler Light & P. Co. v. Belfield, 58 ND 33, 224 NW 871, 63 ALR 1337; Franklin County v. Public Utilities Com. 107 Ohio St 442, 140 NE 87, 30 ALR 429; State ex rel. Daniel v. Broad River Power Co. 157 SC 1, 153 SE 537; Rutland Electric Light Co. v. Marble City Electric Light Co. 65 Vt 377, 26 A 635 ; Virginia-Western Power Co. v. Commonwealth, 125 Va 469, 99 SE 723, 9 ALR 1148, cert den 251 U.S. 557, 64 L.Ed. 413, 40 S Ct 179, disapproved on other grounds Victoria v. Victoria Ice, Light & Power Co. 134 Va 134, 114 SE 92, 28 ALR 562, and disapproved on other grounds Richmond v. Virginia Ry. & Power Co. 141 Va 69, 126 SE 353.

[2] Pennsylvania R. Co. v. Bowers, 124 Pa 183, 16 A 836.

See:

Federal Jurisdiction, Form #05.018 http://sedm.org/Forms/FormIndex.htm

These critical facts are very carefully concealed by the IRS in their publications to hide the true nature of the income tax and instead to make it appear as an "unapportioned direct tax" upon "persons" domiciled in states of the Union. If the American people understood on a large scale:

1. That the I.R.C. Subtitle A income tax was an "excise tax" upon privileged "taxable activities" only.
2. Exactly what activity was being taxed.
3. That the IRS has no jurisdiction within states of the Union against anyone who does not sign a private agreement with the government by submitting a W-4 or a 1040 tax return.
4. That one must be domiciled on federal territory as a statutory "citizen" or "resident" before they can lawfully engage in the activity.
5. That the law specifically forbids the activity to be exercised outside the District of Columbia per 4 U.S.C. §72 or within a state of the Union.
6. That it is a CRIME for most Americans to engage in the activity pursuant to 18 U.S.C. §912.

. . .then they would exit the tax system en masse by simply avoiding the activity. All excise taxes are "avoidable" by avoiding the taxed activity, and therefore they are completely "voluntary". Therefore, the IRS and our public dis-servants have a vested interest in hiding and concealing the true nature of the income tax as an "excise tax" in order to maintain revenues unlawfully collected from the income tax. They sold the truth and your liberty to Satan for 20 pieces of silver. Some things never change, do they?

"For the love of money is a root of all kinds of evil, for which some have strayed from the faith in their greediness, and pierced themselves through with many sorrows."
[1 Tim. 6:10, Bible, NKJV]

In this section, we will demonstrate all the evidence we can find that supports these conclusions, and also show you how the IRS has, with the implicit collusion and approval of the Congress and the Treasury Department, tried to do the following within their deceptive publications:

1. Taken great pains to hide and obfuscate the fact that [Subtitle A of the Internal Revenue Code](#) is an indirect excise tax upon licensed, privileged activities. They have done this by burying the sordid truth deep in regulations that they hope people will never read and which have been carefully obfuscated over the years to make them virtually unintelligible for the average American.
2. Confuse the meaning of the term "[trade or business](#)" in their publications so that everyone thinks they meet this criteria.
3. Create a false and unsupported presumption that all people and all earnings within states of the Union are connected with a "[trade or business](#)" in the [United States](#)".
4. Create the illusion and deception that [IRC Subtitle A](#) describes a direct, unapportioned tax upon natural persons that cannot be avoided or shifted. Once IRS can establish the false presumption Subtitle A as a direct unapportioned tax, then they:
 - 4.1. Can label those who choose not to volunteer as "frivolous" or worst yet, penalize them for filing an accurate return reflecting no "[gross income](#)" because not connected to a "trade or business".
 - 4.2. Have a way to exploit the false presumption and ignorance of juries to claim that those who avoid paying or filing are lawbreakers, even though they broke no laws and exercised their constitutionally protected choice not to volunteer to connect their earnings to a "[trade or business](#)".
 - 4.3. Have an excuse to ignore those who complain that private employers are forcing them to sign and submit W-4 withholding

agreements under duress, or be denied employment. Instead, they have a presumptuous and mistaken excuse to say that it isn't voluntary and that everyone must submit the form, when in fact, the regulations at [26 CFR §31.3402\(p\)-1](#) clearly show otherwise.

If you read the IRS' Civil and Criminal Actions website at the address below, you will see that ALL of their propaganda in fact focuses on the above goals, as we predicted:

<http://www.irs.gov/compliance/index.html>

The IRS warned us it was going to try to deceive us by stating in its own Internal Revenue Manual that you can't rely upon any of its own publications. The federal courts warned us that the IRS was going to do this by telling us that we can't rely upon the phone or oral advice of anyone in the IRS, even if they signed their recommendation under penalty of perjury! Why didn't we listen to any of these warnings? See the surprising truth for yourself:

<http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>

We must, however, remember what the Supreme Court said about false presumptions that come from deliberately deceptive IRS publications and phone advice:

"The power to create [false] presumptions is not a means of escape from constitutional restrictions,"
[New York Times v. Sullivan, 376 U.S. 254 (1964)]

2 Overview of the Income Taxation Process

This section provides basic background on how the income tax described in Internal Revenue Code Subtitle A functions. This will help you fit the explanation contained in this memorandum into the overall taxation process. Below is a summary of the taxation process:

1. The purpose for establishing governments is mainly to protect private property. The Declaration of Independence affirms this:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -"
[Declaration of Independence, 1776]

2. Government protects private rights by keeping "public [government] property" and "private property" separate and never allowing them to be joined together. This is the heart of the separation of powers doctrine: separation of what is private from what is public with the goal of protecting mainly what is private. See:

[Government Conspiracy to Destroy the Separation of Powers, Form #05.023](http://sedm.org/Forms/FormIndex.htm)
<http://sedm.org/Forms/FormIndex.htm>

3. All property BEGINS as private property. The only way to lawfully change it to public property is through the exercise of your unalienable constitutional right to contract. All franchises qualify as a type of contract, and therefore, franchises are one of many methods to lawfully convert PRIVATE property to PUBLIC property. The exercise of the right to contract, in turn, is an act of consent that eliminates any possibility of a legal remedy of the donor against the donee:

"Voluntati non fit injuria. He who consents cannot receive an injury. 2 Bouv. Inst. n. 2279, 2327; 4 T. R. 657 ; Shelf. on mar. & Div. 449.

Consensus tollit errorem. Consent removes or obviates a mistake. Co. Litt. 126.

Melius est omnia mala pati quam malo consentire. It is better to suffer every wrong or ill, than to consent to it. 3 Co. Inst. 23.

Nemo videtur fraudare eos qui sciunt, et consentiunt. One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145."

[Bouvier's Maxims of Law, 1856; SOURCE:
<http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

4. In law, all rights are "property".

Property. *That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict legal sense, **an aggregate of rights which are guaranteed and protected by the government.** Fulton Light, Heat & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. **The term is said to extend to every species of valuable right and interest.** More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy.*

The word is also commonly used to denote everything which is the subject of ownership, corporeal or

incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate. **It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one's property rights by actionable wrong.** *Labberton v. General Cas. Co. of America*, 53 Wash.2d 180, 332 P.2d 250, 252, 254.

Property embraces everything which is or may be the subject of ownership, whether a legal ownership, or whether beneficial, or a private ownership. *Davis v. Davis*, TexCiv-App., 495 S.W.2d 607, 611. Term includes not only ownership and possession but also the right of use and enjoyment for lawful purposes. *Hoffmann v. Kinealy, Mo.*, 389 S.W.2d 745, 752.

Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical thing, as right to possess, use and dispose of it. *Cereghino v. State By and Through State Highway Commission*, 230 Or. 439, 370 P.2d 694, 697.
[Black's Law Dictionary, Fifth Edition, p. 1095]

By protecting your constitutional rights, the government is protecting your PRIVATE property. Your rights are private property because they came from God, not from the government. Only what the government creates can become public property. An example is corporations, which are a public franchise that makes officers of the corporation into public officers.

5. The process of taxation is the process of converting "private property" into a "public use" and a "public purpose". Below is a definition of these terms for your enlightenment.

Public use. *Eminent domain.* The constitutional and statutory basis for taking property by eminent domain. For condemnation purposes, "public use" is one which confers some benefit or advantage to the public; it is not confined to actual use by public. It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a "public advantage" or "public benefit" accrues sufficient to constitute a public use. *Montana Power Co. v. Bokma, Mont.*, 457 P.2d 769, 772, 773.

Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent domain, means a use concerning the whole community distinguished from particular individuals. But each and every member of society need not be equally interested in such use, or be personally and directly affected by it; if the object is to satisfy a great public want or exigency, that is sufficient. *Ringe Co. v. Los Angeles County*, 262 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186. The term may be said to mean public usefulness, utility, or advantage, or what is productive of general benefit. It may be limited to the inhabitants of a small or restricted locality, but must be in common, and not for a particular individual. The use must be a needful one for the public, which cannot be surrendered without obvious general loss and inconvenience. A "public use" for which land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in the sciences, changing conceptions of scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation. *Katz v. Brandon*, 156 Conn. 521, 245 A.2d 579, 586.

See also Condemnation; Eminent domain.
[Black's Law Dictionary, Sixth Edition, p. 1232]

"Public purpose. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. **The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals].** "Public purpose" that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. *Pack v. Southwestern Bell Tel. & Tel. Co.*, 215 Tenn. 503, 387 S.W.2d 789, 794.

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."
[Black's Law Dictionary, Sixth Edition, p. 1231, Emphasis added]

6. The federal government has no power of eminent domain within states of the Union. This means that they cannot lawfully convert private property to a public use or a public purpose within the exclusive jurisdiction of states of the Union:

"The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or

eminent domain, within the limits of a State or elsewhere, except in cases where it is delegated, and the court denies the faculty of the Federal Government to add to its powers by treaty or compact."

[Dred Scott v. Sandford, 60 U.S. 393, 508-509 (1856)]

7. The Fifth Amendment prohibits converting private property to a public use or a public purpose without just compensation if the owner does not consent, and this prohibition applies to the Federal government as well as states of the Union. It was made applicable to states of the Union by the Fourteenth Amendment in 1868.

Fifth Amendment - Rights of Persons

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[United States Constitution, Fifth Amendment]

If the conversion of private property to public property is done without the express consent of the party affected by the conversion and without compensation, then the following violations have occurred:

- 7.1. Violation of the Fifth Amendment "takings clause" above.
 - 7.2. "Conversion" in violation of 18 U.S.C. §654.
 - 7.3. Theft.
8. Because taxation involves converting private property to a public use, public purpose, and public office, then it involves eminent domain if the owner of the property did not expressly consent to the taking:

Eminent domain. *The power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character. Housing Authority of Cherokee National of Oklahoma v. Langley, Okl., 555 P.2d 1025, 1028. Fifth Amendment, U.S. Constitution.*

*In the United States, the power of eminent domain is founded in both the federal (Fifth Amend.) and state constitutions. **However, the Constitution limits the power to taking for a public purpose and prohibits the exercise of the power of eminent domain without just compensation to the owners of the property which is taken. The process of exercising the power of eminent domain is commonly referred to as "condemnation", or, "expropriation".***

The right of eminent domain is the right of the state, through its regular organization, to reassert, either temporarily or permanently, its dominion over any portion of the soil of the state on account of public exigency and for the public good. Thus, in time of war or insurrection, the proper authorities may possess and hold any part of the territory of the state for the common safety; and in time of peace the legislature may authorize the appropriation of the same to public purposes, such as the opening of roads, construction of defenses, or providing channels for trade or travel. Eminent domain is the highest and most exact idea of property remaining in the government, or in the aggregate body of the people in their sovereign capacity. It gives a right to resume the possession of the property in the manner directed by the constitution and the laws of the state, whenever the public interest requires it.

See also Adequate compensation; Condemnation; Constructive taking; Damages; Expropriation; Fair market value; Just compensation; Larger parcel; Public use; Take.

[Black's Law Dictionary, Fifth Edition, p. 470]

9. The Fifth Amendment requires that any taking of private property without the consent of the owner ***must*** involve compensation. The Constitution must be consistent with itself. The taxation clauses found in Article 1, Section 8, Clauses 1 and 3 cannot conflict with the Fifth Amendment. The Fifth Amendment contains no exception to the requirement for just compensation upon conversion of private property to a public use, even in the case of taxation. This is why all taxes must be indirect excise taxes against people who provide their consent by applying for a license to engage in the taxed activity: The application for the license constitutes constructive consent to donate the fruits of the activity to a public use, public purpose, and public office.
10. There is only ONE condition in which the conversion of private property to public property does NOT require compensation, which is when the owner donates the private property to a public use, public purpose, or public office. To wit:

"Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness; and to 'secure,' not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public "benefit"]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation."

[Budd v. People of State of New York, 143 U.S. 517 (1892)]

The above rules are summarized below:

Table 1: Rules for converting private property to a public use or a public office

#	Description	Requires consent of owner to be taken from owner?
1	The owner of property justly acquired enjoys full and exclusive use and control over the property. This right includes <u>the right to exclude government uses</u> or ownership of said property.	Yes
2	He may not use the property to injure the equal rights of his neighbor. For instance, when you murder someone, the government can take your liberty and labor from you by putting you in jail or your life from you by instituting the death penalty against you. Both your life and your labor are "property". Therefore, the basis for the "taking" was violation of the equal rights of a fellow sovereign "neighbor".	No
3	He cannot be compelled or required to use it to "benefit" his neighbor. That means he cannot be compelled to donate the property to any franchise that would "benefit" his neighbor such as Social Security, Medicare, etc.	Yes
4	If he donates it to a public use, he gives the public the right to control that use.	Yes
5	Whenever the public needs require, the public may take it without his consent upon payment of due compensation. E.g. "eminent domain".	No

11. The following two methods are the ONLY methods involving consent of the owner that may be LAWFULLY employed to convert PRIVATE property into PUBLIC property. Anything else is unlawful and THEFT:
- 11.1 **DIRECT CONVERSION:** Owner donates the property by conveying title or possession to the government. An example of direct conversion would be the process of "registering" a vehicle with the Department of Motor Vehicles in your state. The act of registration constitutes consent by original ABSOLUTE owner to change the ownership of the property from ABSOLUTE to QUALIFIED and to convey legal title to the state and qualified title to himself.
- 11.2 **INDIRECT CONVERSION:** Owner assumes a PUBLIC status as a PUBLIC officer in the HOLDING of title to the property. All such statuses and the rights that attach to it are creations and property of the government, the use of which is a privilege. The status and all PUBLIC RIGHTS that attach to it conveys a "benefit" for which the status user must pay an excise tax. The tax acts as a rental or use fee for the status, which is government property. An example of a PUBLIC status is statutory "taxpayer" (public office called "trade or business"), statutory "citizen", statutory "driver" (vehicle), statutory voter (registered voters are public officers).
12. You and ONLY you can authorize your private property to be donated to a public use, public purpose, and public office. No third party can lawfully convert or donate your private property to a public use, public purpose, or public office without your knowledge and express consent. If they do, they are guilty of theft and conversion, and especially if they are acting in a quasi-governmental capacity as a "withholding agent" as defined in 26 U.S.C. §7701(a)(16).
- 12.1. A withholding agent cannot file an information return connecting your earnings to a "trade or business" without you actually occupying a "public office" in the government BEFORE you filled out any tax form.
- 12.2. A withholding agent cannot file IRS form W-2 against your earnings if you didn't sign an IRS Form W-4 contract and thereby consent to donate your private property to a public office in the U.S. government and therefore a "public use".
- 12.3. That donation process is accomplished by your own voluntary self-assessment and ONLY by that method. Before such a self-assessment, you are a "nontaxpayer" and a private person. After the assessment, you become a "taxpayer" and a public officer in the government engaged in the "trade or business" franchise. That donation process is described in 31 U.S.C. §321(d):
- 12.4. In order to have an income tax liability, you must complete, sign, and "file" an income tax return and thereby assess yourself:

*"Our system of taxation is based upon voluntary assessment and payment, not distraint."
[Flora v. U.S., 362 U.S. 145 (1960)]*

By assessing yourself, you implicitly give your consent to allow the public the right to control that use of the formerly PRIVATE property donated to a public use.

- 12.5. IRS Forms W-2 and W-4 are identified as Tax Class 5: Estate and Gift Taxes. Payroll withholdings are GIFTS, not "taxes" in a common law sense.

[TITLE 31](#) > [SUBTITLE I](#) > [CHAPTER 3](#) > [SUBCHAPTER II](#) > § 321

§ 321. *General authority of the Secretary*

(d)

(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

They don't become "taxes" and assessments until you attach the Form W-2 "gift statement" to an assessment called a Form 1040 and create a liability with your own self-assessment signature. IRS has no delegated authority to convert a "gift" into a "tax". That is why when you file the IRS Form 1040, you must attach the W-2 gift statement. See:

Great IRS Hoax, Form #11.007, Section 5.6.15
<http://sedm.org/Forms/FormIndex.htm>

- 12.6. The IRS cannot execute a lawful assessment without your knowledge and express consent because if they didn't have your consent, then it would be criminal conversion and theft. That is why every time they do an assessment, they have to call you into their office and present it to you to procure your consent in what is called an "examination". If you make it clear that you don't consent and hand them the following, they have to delete the assessment because it's only a proposal. See:

Why the Government Can't Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent, Form #05.011
<http://sedm.org/Forms/FormIndex.htm>

There is no way other than the above to lawfully create an income tax liability without violating the Fifth Amendment takings clause. If you assess yourself, you consent to become a "public officer" and thereby donate the fruits of your labor as such officer to a public use and a public purpose.

13. The IRS won't admit this, but this in fact is how the de facto unlawful system currently functions:
- 13.1. You can't unilaterally "elect" yourself into a "public office", even if you do consent.
 - 13.2. No IRS form nor any provision in the Internal Revenue Code CREATES any new public offices in the government.
 - 13.3. The I.R.C. only taxes EXISTING public offices lawfully exercised ONLY in the District of Columbia and in all places expressly authorized pursuant to 4 U.S.C. §72.
14. Information returns are being abused in effect as "federal election" forms.
- 14.1. Third parties in effect are nominating private persons into public offices in the government without their knowledge, without their consent, and without compensation. Thus, information returns are being used to impose the obligations of a public office upon people without compensation and thereby impose slavery in violation of the Thirteenth Amendment.
 - 14.2. Anyone who files a false information return connecting a person to the "trade or business"/"public office" franchise who in fact does not ALREADY lawfully occupy a public office in the U.S. government is guilty of impersonating a public officer in criminal violation of 18 U.S.C. §912.
15. The IRS Form W-4 cannot and does not create an office in the U.S. government, but allows EXISTING public officers to elect to connect their private earnings to a public use, a public office, and a public purpose. The IRS abuses this form to unlawfully create public offices, and this abuse of the I.R.C. is the heart of the tax fraud: They are making a system that only applies to EXISTING public offices lawfully exercised in order to:
- 15.1. Unlawfully create new public offices in places where they are not authorized to exist.
 - 15.2. Destroy the separation of powers between what is public and what is private.
 - 15.3. Institute eminent domain over private labor using false third party reports. Omission in preventing such fraud accomplishes involuntary servitude in violation of the Thirteenth Amendment, 42 U.S.C. §1994, and 18 U.S.C. §1581.
 - 15.4. Destroy the separation of powers between the federal and state governments. Any state employee who participates in the federal income tax is serving in TWO offices, which is a violation of most state constitutions.
 - 15.5. Enslave innocent people to go to work for them without compensation, without recourse, and in violation of the thirteenth amendment prohibition against involuntary servitude. That prohibition, incidentally, applies EVERYWHERE, including on federal territory.
16. The right to control the use of private property donated to a public use to procure the benefits of a franchise is enforced through the Internal Revenue Code, which is the equivalent of the employment agreement for franchisees called "taxpayers".

The above criteria explains why:

1. You cannot be subject to either employment tax withholding or employment tax reporting without voluntarily signing an IRS Form W-4.

Title 26: Internal Revenue
[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)
[Subpart E—Collection of Income Tax at Source](#)
[Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

*An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)-3, made after December 31, 1970. **An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.*

(b) Form and duration of agreement

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. **However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other.** Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

[26 CFR §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)-1 and 31.3401(d)-1 for the definitions of "employee" and "employer".

2. The courts have no authority under the Declaratory Judgments Act, 28 U.S.C. §2201(a) to declare you a franchisee called a "taxpayer". You own yourself.

*Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. § 7701(a)(14)." (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the instant action. See 28 U.S.C. § 2201; see also Hughes v. United States, 953 F.2d 531, 536-537 (9th Cir. 1991)** (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.*

[\[Rowen v. U.S., 05-3766MMC. \(N.D.Cal. 11/02/2005\)\]](#)

3. The revenue laws may not be cited or enforced against a person who is not a "taxpayer":

"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."

[Long v. Rasmussen, 281 F. 236 (1922)]

"Revenue Laws relate to taxpayers [officers, employees, instrumentalities, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government and who did not volunteer to participate in the federal "trade or business" franchise]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws."

[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

"And by statutory definition, 'taxpayer' includes any person, trust or estate subject to a tax imposed by the revenue act. ...Since the statutory definition of 'taxpayer' is exclusive, the federal courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..."

[C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d 18 (1939)]

All of the above requirements have in common that violating them would result in the equivalent of exercising eminent domain over the private property of the private person without their consent and without just compensation, which the U.S. Supreme Court said violates the Fifth

Amendment takings clause:

To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.

Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.

Coulter, J., in *Northern Liberties v. St. John's Church*, 13 Pa. St., 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**' See, also *Pray v. Northern Liberties*, 31 Pa.St., 69; *Matter of Mayor of N.Y.*, 11 Johns., 77; *Camden v. Allen*, 2 Dutch., 398; *Sharpless v. Mayor*, supra; *Hanson v. Vernon*, 27 Ia., 47; *Whiting v. Fond du Lac*, supra."

[*Loan Association v. Topeka*, 20 Wall. 655 (1874)]

As a consequence of the above considerations, any government officer or employee who does any of the following is unlawfully converting private property to a public use without the consent of the owner and without consideration:

1. Assuming or "presuming" you are a "taxpayer" without producing evidence that you consented to become one. In our system of jurisprudence, a person must be presumed innocent until proven guilty with court admissible evidence. Presumptions are NOT evidence. That means they must be presumed to be a "nontaxpayer" until they are proven with admissible evidence to be a "taxpayer". See:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017

<http://sedm.org/Forms/FormIndex.htm>

2. Performing a tax assessment or re-assessment if you haven't *first* voluntarily assessed yourself by filing a tax return. See:

Why the Government Can't Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent, Form #05.011

<http://sedm.org/Forms/FormIndex.htm>

3. Citing provisions of the franchise agreement against those who never consented to participate. This is an abuse of law for political purposes and an attempt to exploit the innocent and the ignorant. The legislature cannot delegate authority to the Executive Branch to convert innocent persons called "nontaxpayers" into franchisees called "taxpayers" without producing evidence of consent to become "taxpayers".

"In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that made a man judge in his own case; and a law that took the property from A [the worker], and gave it to B [the government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private [employment] contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain that a Federal or State legislature possesses such powers [of THEFT!] if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.' 3 Dall. 388."
[Sinking Fund Cases. 99 U.S. 700 (1878)]

4. Relying on third party information returns that are unsigned as evidence supporting the conclusion that you are a "taxpayer". These forms include IRS Forms W-2, 1042s, 1098, and 1099 and they are NOT signed and are inadmissible as evidence under Federal Rule of Evidence 802 because not signed under penalty of perjury. Furthermore, the submitters of these forms seldom have personal knowledge that you are in fact and in deed engaged in a "trade or business" as required by 26 U.S.C. §6041(a). Most people don't know, for instance, that a "trade or business" includes ONLY "the functions of a public office".

3. Proof IRC Subtitle A is primarily an excise tax on activities in connection with a "trade or business"

We'll start off with a definition of "trade or business":

26 U.S.C. §7701(a)(26)

"The term 'trade or business' includes [is limited to] the performance of the functions of a public office."

We know that the IRS likes to point to the word "includes" in the above definition and state that it is an "expansive" definition that does not exclude the common meaning of the term. We must remember, however, that there is an important principle of statutory construction which states that anything not mentioned in a law, statute, code, or regulation is "excluded by implication", which means that all things not connected

to a "public office" are excluded from the definition of "[trade or business](#)" by implication:

"When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning. *Meese v. Keene*, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); *Colautti v. Franklin*, 439 U.S. at 392-393, n. 10 ("As a rule, a definition which declares what a term "means" . . . excludes any meaning that is not stated"); *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 502 (1945) ; *Fox v. Standard Oil Co. of N.J.*, 294 U.S. 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, *Sutherland on Statutes and Statutory Construction* § 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). **That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition.** That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."
[\[Stenberg v. Carhart, 530 U.S. 914 \(2000\)\]](#)

"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d 321, 325; *Newblock v. Bowles*, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."
[\[Black's Law Dictionary, Sixth Edition, p. 581\]](#)

Therefore, the definition of the term "[trade or business](#)", says what it means and means what it says. The Supreme Court has said many times that words used in a law or statute are to be given their ordinary and plain meaning and are to be restricted to the clear language found in the code itself. If you would like an exhaustive analysis of the meaning of the word "[includes](#)" within the Internal Revenue Code, please refer to our free pamphlet available on the internet below:

[Meaning of the words "includes" and "including"](#)
<http://famguardian.org/Subjects/Taxes/FalseRhetoric/Includess.pdf>

The only time in the I.R.C. where the term "[trade or business](#)" can mean anything other than what it is defined above to mean is in places where there a regional definition that overrides the general or default definition found in [26 U.S.C. §7701\(a\)\(26\)](#) above. Below is the only example of that within the I.R.C., which is intended to be used only in the context of "self employment":

[26 U.S.C. §1402 Definitions](#)

(c) Trade or business

The term "[trade or business](#)", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that **such term shall not include -**

(1) the performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act;

(2) the performance of service by an individual as an employee, other than -

- (A) service described in section 3121(b)(14)(B) performed by an individual who has attained the age of 18,
- (B) service described in section 3121(b)(16),
- (C) service described in section 3121(b)(11), (12), or (15) performed in the United States (as defined in section 3121(e)(2)) by a citizen of the United States, except service which constitutes "employment" under section 3121(y),
- (D) service described in paragraph (4) of this subsection,
- (E) service performed by an individual as an employee of a State or a political subdivision thereof in a position compensated solely on a fee basis with respect to fees received in any period in which such service is not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act,
- (F) service described in section 3121(b) (20), and
- (G) service described in section 3121(b)(8)(B);

(3) the performance of service by an individual as an employee or employee representative as defined in section 3231;

(4) the performance of service by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(5) the performance of service by an individual in the exercise of his profession as a Christian Science practitioner; or

(6) the performance of service by an individual during the period for which an exemption under subsection (g) is effective with respect to him. The provisions of paragraph (4) or (5) shall not apply to service (other than service

*performed by a member of a religious order who has taken a vow of poverty as a member of such order)
performed by an individual unless an exemption under subsection (e) is effective with respect to him.*

So we look up the definition in [26 U.S.C. §162](#) and here is what it says:

[TITLE 26](#) > [Subtitle A](#) > [CHAPTER 1](#) > [Subchapter B](#)
Part VI-Itemized deductions for Individuals and Corporations
[Sec. 162.](#) - Trade or business expenses

(a) In general

*There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any **trade or business**, including –*

(1) a reasonable allowance for salaries or other compensation for [personal services](#) actually rendered;

So in other words, in the context of self employment ONLY, the term "[trade or business](#)" *excludes* public offices in the District of Columbia and only *includes* those of federal territories and possessions, which are called "[States](#)" within the I.R.C. This is because the default definition in [26 U.S.C. §7701\(a\)\(26\)](#) includes ALL public offices everywhere within federal jurisdiction, whereas those public offices in the District of Columbia are specifically not mentioned by the above definition. When the authors of the U.S. Code in the Office of Law Revision Counsel of the House of Representatives wants to confuse and mislead the American people, they will write the code in such as way as to use a double-negative, whereby they define what the new definition of "[trade or business](#)" *excludes*, and then don't include public offices in the District of Columbia but include all other types of political offices under federal jurisdiction. Therefore, for self employment context ONLY, "trade or business" has a different meaning than the default definition in [26 U.S.C. §7701\(a\)\(26\)](#) and has been overridden to exclude public offices in the District of Columbia but include all other types of public offices otherwise within federal jurisdiction.

Government franchises and the excise taxes that implement them such as the "trade or business" franchise are commonly called by any of the following names to disguise the nature of the transaction:

1. "public right".
2. "publici juris".
3. "privilege".
4. "excise taxable privilege".
5. "public office".
6. "Congressionally created right".

The U.S. Supreme Court confirmed that the income tax was an excise tax indirectly when they held the following:

*"The distinction between public rights and private rights has not been definitively explained in our precedents.^[1] Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a minimum arise "between the government and others." [Ex parte Bakelite Corp., supra, at 451, 49 S.Ct., at 413.](#)^[2] In contrast, "the liability of one individual to another under the law as defined," [Crowell v. Benson, supra, at 51, 52 S.Ct., at 292.](#) is a matter of private rights. **Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See [Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d 464 \(1977\)](#) ; [Crowell v. Benson, supra, 285 U.S., at 50-51, 52 S.Ct., at 292.](#) See also [Katz, Federal Legislative Courts, 43 Harv.L.Rev. 894, 917-918 \(1930\).](#)^{FN24} Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power."***

[. . .]

Although [Crowell](#) and [Raddatz](#) do not explicitly distinguish between rights created by Congress and other rights, such a distinction underlies in part [Crowell's](#) and [Raddatz's](#) recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against "encroachment or aggrandizement" by Congress at the expense of the other branches of government. [Buckley v. Valeo, 424 U.S., at 122, 96 S.Ct., at 683.](#) But when Congress creates a statutory right [a "privilege" in this case, such as a "trade or business"], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right.^{FN35} Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress' power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress' power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts.

[Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. at 83-84, 102 S.Ct. 2858 (1983)]

[1] [Crowell v. Benson, 285 U.S. 22, 52 S.Ct. 285, 76 L.Ed. 598 \(1932\)](#), attempted to catalog some of the matters that fall within the public-rights doctrine:

"Familiar illustrations of administrative agencies created for the determination of such matters are found in connection with the exercise of the congressional power as to interstate and foreign commerce, taxation, immigration, the public lands, public health, the facilities of the post office, pensions and payments to veterans." *Id.*, at 51, 52 S.Ct., at 292 (footnote omitted).

[2] Congress cannot "withdraw from [Art. III] judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." [Murray's Lessee v. Hoboken Land & Improvement Co., 18 How. 272, 284 \(1856\)](#) (emphasis added). It is thus clear that the presence of the United States as a proper party to the proceeding is a necessary but not sufficient means of distinguishing "private rights" from "public rights." And it is also clear that even with respect to matters that arguably fall within the scope of the "public rights" doctrine, the presumption is in favor of Art. III courts. See [Glidden Co. v. Zdanok, 370 U.S., at 548-549, and n. 21, 82 S.Ct., at 1471-1472, and n. 21](#) (opinion of Harlan, J.). See also Currie, *The Federal Courts and the American Law Institute*, Part 1, 36 U.Chi.L.Rev. 1, 13-14, n. 67 (1968). Moreover, when Congress assigns these matters to administrative agencies, or to legislative courts, it has generally provided, and we have suggested that it may be required to provide, for Art. III judicial review. See [Atlas Roofing Co. v. Occupational Safety and Health Review Comm'n, 430 U.S., at 455, n. 13, 97 S.Ct., at 1269, n. 13](#).

To give you an example of the above phenomenon, the so-called "U.S. Tax Court" is identified in 26 U.S.C. §7441 as an Article I court, and hence NOT an Article III court as described above. It is therefore what the U.S. Supreme Court identified above as a "particularized" tribunal that officiates ONLY over "Congressionally created rights", which is a euphemism for "privileges" incident to a franchise.

[TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter C > PART I > § 7441](#)
[§ 7441. Status](#)

There is hereby established, under **article I of the Constitution of the United States**, a court of record to be known as the United States Tax Court. The members of the Tax Court shall be the chief judge and the judges of the Tax Court.

Only "public rights" exercised by "public officers" may be officiated in the U.S. Tax Court, which is a "legislative franchise court".

"franchise court. Hist. A privately held court that (usu.) exists by virtue of a royal grant [privilege], with jurisdiction over a variety of matters, depending on the grant and whatever powers the court acquires over time. In 1274, Edward I abolished many of these feudal courts by forcing the nobility to demonstrate by what authority (quo warranto) they held court. If a lord could not produce a charter reflecting the franchise, the court was abolished. - Also termed courts of the franchise.

Dispensing justice was profitable. Much revenue could come from the fees and dues, fines and amercements. This explains the growth of the second class of feudal courts, the Franchise Courts. They too were private courts held by feudal lords. Sometimes their claim to jurisdiction was based on old pre-Conquest grants ... But many of them were, in reality, only wrongful usurpations of private jurisdiction by powerful lords. These were put down after the famous Quo Warranto enquiry in the reign of Edward 1." W.J.V. Windeyer, Lectures on Legal History 56-57 (2d ed. 1949) ."

[Black's Law Dictionary, Seventh Edition, p. 668]

Below are the legal mechanisms involved as described by the Annotated U.S. Constitution:

The Public Rights Distinction

*"That is, "public" rights are, strictly speaking, those in which the cause of action inheres in or lies against the Federal Government in its sovereign capacity, the understanding since Murray's Lessee. However, to accommodate Crowell v. Benson, Atlas Roofing, and similar cases, **seemingly private causes of action between private parties will also be deemed "public" rights, when Congress, acting for a valid legislative purpose pursuant to its Article I powers, fashions a cause of action that is analogous to a common-law claim and so closely integrates it into a public regulatory scheme that it becomes a matter appropriate for agency resolution with limited involvement by the Article III judiciary.** (82)"*

[Footnote 82: *Granfinanciera, S.A. v. Nordberg, 492 U.S. at 52-54. The Court reiterated that the Government need not be a party as a prerequisite to a matter being of "public right."* *Id.* at 54. Concurring, Justice Scalia argued that public rights historically were and should remain only those matters to which the Federal Government is a party. *Id.* at 65.]

[Annotated Constitution, Year 2002, p. 640.

SOURCE: <http://www.gpoaccess.gov/constitution/pdf2002/013.pdf>]

So the U.S. Tax Court is really nothing more than an administrative binding arbitration board for federal statutory "employees" and public officers in resolving disputes INTERNAL to the national government and among federal instrumentalities, officers, bureaus, and agencies. All these entities are identified in 26 U.S.C. §6331(a) as the ONLY proper subject of IRS enforcement activity, which the code calls "distrain".

That, in fact, is why the INTERNAL Revenue Service begins with the word "INTERNAL". The "private causes of action" they are referring to are the exercise of "private law", which is a fancy term for contract law, where the franchise itself codified in I.R.C. Subtitles A through C is the franchise contract. The U.S. Supreme Court called income taxes a "quasi contract", in fact.^[1]

"Private law. That portion of the law which defines, regulates, enforces, and administers relationships among individuals, associations, and corporations. As used in contradistinction to public law, the term means all that part of the law which is administered between citizen and citizen, or which is concerned with the definition, regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare Public Law."
[Black's Law Dictionary, Sixth Edition, p. 1196]

Private law such as the I.R.C. Subtitles A through C can only acquire the "force of law" through the consent of BOTH parties to it. Contracts between private people are an example of private law. This is thoroughly established in:

[Requirement for Consent, Form #05.003, Sections 10 through 13.7
http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

Many people misrepresent the facts by claiming that the I.R.C. is not "law". It IS law, but NOT for everyone. If someone shoves a signed contract in front of you and you manifest actions that indicate consent to the provisions of the contract, then its as good as if you signed it. This kind of consent is called "implied" consent or "tacit procuration". This kind of consent is manifested in several forms, including:

1. Filling out "taxpayer" forms. ALL IRS forms are ONLY for consenting statutory "taxpayers".
 - 1.1. The IRS Mission Statement, IRM Section 1.1.1.1 says that they can help ONLY statutory "taxpayers" who consent to the franchise contract. That is the true meaning of the word "Service" in their name. They are helping those who volunteer to "serve" uncle with their "donations". 31 U.S.C. §321(d), in fact, identifies all income taxes as "donations". So whenever you see the word "tax", it REALLY means a donation paid under the authority of the federal public officer kickback program disguised to LOOK like a lawful constitutional tax.
 - 1.2. If you want a nontaxpayer form, you will have to modify theirs to make one or make your own nontaxpayer form. They don't help and even interfere with the rights of "nontaxpayers", which makes us wonder whether they can even really be part of a government. REAL governments provide EQUAL protection to both "taxpayers" and "nontaxpayers", don't discriminate, and are instituted to protect mainly PRIVATE rights, which means constitutional rights of NONTAXPAYERS FIRST, before they can even take on the job of ALSO protecting public rights of public officers. For a huge collection of "nontaxpayer forms", see:

[SEDM Forms and Publications Page
http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

2. VOLUNTARILY signing and submitting an IRS Form W-4, which the treasury regulations identify as an "agreement", and hence contract. See 26 CFR §31.3401(a)-3(a) and 26 CFR §34.3402(p)-1. The upper left corner of the form says "EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE":
 - 2.1. YOU are the one doing the "allowing".
 - 2.2. What you are consenting to is to become a public officer engaged in the "trade or business", "social insurance" and SOCIALISM franchise. You are trading RIGHTS for statutory privileges by signing up.
 - 2.3. The W-4 form is therefore a request to become a Kelly girl on loan to a formerly private employer and to send kickbacks to the mother corporation and your "parens patriae" that loans out your services as a public officer.
3. Quoting any provision of the I.R.C. and thereby "purposefully availing" yourself of its "benefits" and thereby:
 - 3.1. Waiving sovereign immunity under 28 U.S.C. §1605(a)(2).
 - 3.2. Changing your status from a statutory nonresident alien under 26 U.S.C. §7701(b)(1)(B) to that of a resident alien under 26 U.S.C. §7701(b)(1)(A).
4. Claiming earned income credits under 26 U.S.C. §32, or "trade or business" deductions under 26 U.S.C. §162.
5. Petitioning U.S. Tax Court. Tax Court Rule 13(a) says that only "taxpayers" who are party to the contract can avail themselves of the "benefits" of this brand of administrative rather than judicial remedy.
6. Using a "Taxpayer Identification Number", which 26 CFR §301.6109-1(b) says is only mandatory in the case of those engaged in a "trade or business" and therefore a public office in the U.S. government.

The IRS, judges, and government prosecutors don't want you to know this stuff and carefully hide the nature of the transaction to keep you in the dark. They love what we call "mushrooms", which are organisms that you keep in the dark and feed SHIT to. The SHIT is:

1. Disinformation.
2. Deceptive publications that refuse to disclose accurate definitions of key words.
3. Words of art in their void for vagueness franchise "codes" that are private law.
4. Concealing of the real names of the IRS agents (they don't use their REAL names).
5. False accusations to keep you on the defensive.
6. Filtering evidence from appearing in litigation to keep the jury from learning what is in this document and thereby unjustly enrich themselves at your expense. This is naked thievery.

Your public dis-servants play these games to disguise the consensual nature of what they are doing and let you practically convict and hang yourself. They sit back and watch by doing all the above, never once telling you that your consent is required, or asking you whether you want to consent, or notifying you in their publications that they will protect your right to NOT consent. We call this the "Rig and bait the trap and hide the consent game". The trap is their own omission and the legal ignorance they manufactured in you within the public/government school system that they use to HARVEST your labor and property when you enter the work force. You live on a corporate farm and you are government livestock. See:

The REAL Matrix

http://famguardian1.org/Media/The_REAL_Matrix.wmv

Why do they need your consent? Because the Declaration of Independence says ALL JUST AUTHORITY of any civil government derives from CONSENT of the governed, and they need that consent in a LOT of ways to govern. Another reason is that he who consents cannot complain of an injury accomplished during tax enforcement and in some cases entirely forfeits their right to sue in REAL, Constitutional court instead of fake U.S. Tax Court franchise court.

"These general rules are well settled:

(1) ***That the United States, when it creates rights in individuals against itself [a "public right", which is a euphemism for a "franchise" to help the court disguise the nature of the transaction], is under no obligation to provide a remedy through the courts.*** *United States ex rel. Dunlap v. Black*, 128 U. S. 40, 9 Sup. Ct. 12, 32 L. Ed. 354; *Ex parte Atocha*, 17 Wall. 439, 21 L. Ed. 696; *Gordon v. United States*, 7 Wall. 188, 195, 19 L. Ed. 35; *De Groot v. United States*, 5 Wall. 419, 431, 433, 18 L. Ed. 700; *Comegys v. Vasse*, 1 Pet. 193, 212, 7 L. Ed. 108.

(2) *That where a statute creates a right and provides a special remedy, that remedy is exclusive.* *Wilder Manufacturing Co. v. Corn Products Co.*, 236 U. S. 165, 174, 175, 35 Sup. Ct. 398, 59 L. Ed. 520, Ann. Cas. 1916A, 118; *Arnson v. Murphy*, 109 U. S. 238, 3 Sup. Ct. 184, 27 L. Ed. 920; *Barnet v. National Bank*, 98 U. S. 555, 558, 25 L. Ed. 212; *Farmers' & Mechanics' National Bank v. Dearing*, 91 U. S. 29, 35, 23 L. Ed. 196. Still the fact that the right and the remedy are thus intertwined might not, if the provision stood alone, require us to hold that the remedy expressly given excludes a right of review by the Court of Claims, where the decision of the special tribunal involved no disputed question of fact and the denial of compensation was rested wholly upon the construction of the act. See *Medbury v. United States*, 173 U. S. 492, 198, 19 Sup. Ct. 503, 43 L. Ed. 779; *Parish v. MacVeagh*, 214 U. S. 124, 29 Sup. Ct. 556, 53 L. Ed. 936; *McLean v. United States*, 226 U. S. 374, 33 Sup. Ct. 122, 57 L. Ed. 260; *United States v. Laughlin* (No. 200), 249 U. S. 440, 39 Sup. Ct. 340, 63 L. Ed. 696, decided April 14, 1919. [*U.S. v. Babcock*, 250 U.S. 328, 39 S.Ct. 464 (1919)]

It is otherwise an unconstitutional "bill of attainder" to institute IRS penalties against a person protected by the Constitution:

Volunt non fit injuria.

He who consents cannot receive an injury. 2 *Bouv. Inst. n.* 2279, 2327; 4 *T. R.* 657; *Shelf. on mar. & Div.* 449.

Consensus tollit errorem.

Consent removes or obviates a mistake. *Co. Litt.* 126.

Melius est omnia mala pati quam malo concentire.

It is better to suffer every wrong or ill, than to consent to it. 3 *Co. Inst.* 23.

Nemo videtur fraudare eos qui sciunt, et consentiunt.

One cannot complain of having been deceived when he knew the fact and gave his consent. *Dig.* 50, 17, 145.

[*Bouvier's Maxims of Law*, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

The important thing to remember, however, is that Congress is FORBIDDEN from creating franchises within states of the Union. Why? Because:

1. The Declaration of Independence, which is organic law, says our constitutional rights are "unalienable".
2. An "unalienable right" is one that you AREN'T ALLOWED BY LAW to consent to give away in relation to a real, de jure government! Such a right cannot lawfully be sold, bargained away, or transferred through any commercial process, INCLUDING A FRANCHISE. Hence, even if we consent, the forfeiture of such rights is unconstitutional, unauthorized, and a violation of the fiduciary duty to the public officer we surrender them to.

"Unalienable. Inalienable; incapable of being aliened, that is, sold and transferred."

[*Black's Law Dictionary, Fourth Edition*, p. 1693]

3. The only place you can lawfully give up constitutional rights is where they physically do not exist, which is among those domiciled on AND physically present on federal territory not part of any state of the Union.

*"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform to the effect [182 U.S. 244, 279] that **the Constitution is applicable to territories acquired by purchase or conquest, only when and so far as Congress shall so direct. Notwithstanding its duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is exercised by representatives elected by them.'** Congress did not hesitate, in the original organization of the territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan, Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing a much greater analogy to a British Crown colony than a republican state of America, and to vest the legislative power either in a governor and council, or a governor and judges, to be appointed by the President. It was not until they had attained a certain population*

that power was given them to organize a legislature by vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights."

[Downes v. Bidwell, [182 U.S. 244](#) (1901)]

4. All governments are created exclusively to protect PRIVATE RIGHTS. The way you protect them is to LEAVE THEM ALONE and not burden their exercise in any way. A lawful de jure government cannot and does not protect your rights by making a business out of destroying, regulating, and taxing their exercise, implement the business as a franchise, and hide the nature of what they are doing as a franchise and an excise. This would cause and has caused the money changers to take over the charitable public trust and "civic temple" and make it into a warehouse in violation of the Constitutional trust indenture. This kind of money changing in fact, is the very reason that Jesus flipped tables over in the temple out of anger: Turning the bride of Christ and God's minister for justice into a WHORE. The nuns are now pimped out and the church is open for business for all the statutory "taxpayer" Johns who walk in.

That is why the geographical definitions within the I.R.C. limit themselves to federal territory exclusively and include no part of any state of the Union.

If you want an exhaustive analysis of how franchises such as the I.R.C. Subtitles A through C operate, please see the following:

[Government Instituted Slavery Using Franchises](#), Form #05.030
<http://sedm.org/Forms/FormIndex.htm>

[1] See Milwaukee v. White, [296 U.S. 268](#) (1935).

4. Synonyms for "trade or business"

Another important concept we need to be very aware of is that there are also synonyms for "[trade or business](#)" used within the Internal Revenue Code.

4.1 "wages"

The term "wages" is synonymous with a "trade or business". Below is the proof from 26 U.S.C. §3401, where it says that earnings not in the course of an employers "trade or business" are exempted from "wages".

[TITLE 26](#) > [Subtitle C](#) > [CHAPTER 24](#) > § 3401
[§ 3401. Definitions](#)

(a) **Wages**

*For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; **except that such term shall not include remuneration paid—***

[. . .]

(4) **for service not in the course of the employer's trade or business** performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if—

- (A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or
- (B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter; or

(11) **for services not in the course of the employer's trade or business**, to the extent paid in any medium other than cash; or

The above is also completely consistent with the IRS form W-2 itself, which is an information return that 26 U.S.C. §6041 says may ONLY be filed to document earnings in excess of \$600 in the course of a "trade or business".

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART III](#) > [Subpart B](#) > § 6041
[§ 6041. Information at source](#)

(a) *Payments of \$600 or more*

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

So if you aren't engaged in a "trade or business", then your private employer cannot lawfully or truthfully report "wages" on an IRS form W-2 in connection with you. If they do, they are in criminal violation of [26 U.S.C. §7207](#), which provides for a \$10,000 fine and imprisonment for up to one year for filing a false information return such as a W-2.

Those who do not serve in a "public office" therefore can only earn "wages" if they sign an agreement and stipulate to call their PRIVATE earnings wages. In the absence of such an agreement, it is false and fraudulent and a criminal offense to report any amount other than ZERO on an IRS form W-2 in connection with a person who is not engaged in a "trade or business". These conclusions are confirmed by 26 CFR §31.3402(p)-1:

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)

[Subpart E—Collection of Income Tax at Source](#)

[Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)–3, made after December 31, 1970. **An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)–1, Q&A–3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

(b) Form and duration of agreement

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. **However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other.** Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

The above is also reiterated again in the Treasury Regulations below:

[26 CFR §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)–3).

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)–1 and 31.3401(d)–1 for the definitions of "employee" and "employer".

If you do not give your private employer a W-4 form or if it is signed under duress and indicates so, it is a criminal offense to report anything other than ZERO on any IRS form W-2 that is sent to the IRS. Even if the IRS orders the private employer to withhold at single zero, he can

STILL only withhold on "wages", which are ZERO for a person who never signed or submitted an IRS form W-4. 100% of ZERO is still ZERO. Furthermore, nothing signed under any threat of duress, such as a threat to either fire you or not hire you for refusing to sign and submit an IRS form W-4 can be described as an "agreement" pursuant to any of the above regulations and anyone who concludes otherwise is engaged in a criminal conspiracy against your rights. This is ESPECIALLY true if they are acting under the "color of law" as a voluntary officer of the government, such as an "employer".

"An agreement [consent] obtained by duress, coercion, or intimidation is invalid, since the party coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to execute the agreement as the state of mind induced. [1] Duress, like fraud, rarely becomes material, except where a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders the contract or conveyance voidable, not void, at the option of the person coerced, [2] and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it. [3] However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has no intention of doing so, is generally deemed to render the resulting purported contract void. [4]"

[American Jurisprudence 2d, Duress, Section 21]

[1] *Brown v Pierce*, 74 US 205, 7 Wall 205, 19 L Ed 134

[2] *Barnette v Wells Fargo Nevada Nat'l Bank*, 270 US 438, 70 L Ed 669, 46 S Ct 326 (holding that acts induced by duress which operate solely on the mind, and fall short of actual physical compulsion, are not void at law, but are voidable only, at the election of him whose acts were induced by it); *Faske v Gershman*, 30 Misc 2d 442, 215 NYS2d 144; *Glenney v Crane (Tex Civ App Houston (1st Dist))* 352 SW2d 773, writ ref n r e (May 16, 1962); *Carroll v Fetty*, 121 W Va 215, 2 SE2d 521, cert den 308 US 571, 84 L Ed 479, 60 S Ct 85.

[3] *Faske v Gershman*, 30 Misc 2d 442, 215 NYS2d 144; *Heider v Unicume*, 142 Or 416, 20 P2d 384; *Glenney v Crane (Tex Civ App Houston (1st Dist))* 352 SW2d 773, writ ref n r e (May 16, 1962)

[4] *Restatement 2d, Contracts § 174*, stating that if conduct that appears to be a manifestation of assent by a party who does not intend to engage in that conduct is physically compelled by duress, the conduct is not effective as a manifestation of assent.

Yet another confirmation of the conclusions of this section is found in the Individual Master File (IMF) that the IRS uses to maintain a record of your tax liability. The amount of "taxable income" is called NOT "income", but "wages" at the end of the report! Quite telling. See for yourself:

[Master File Decoder](http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm)

<http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm>

4.2 "personal services"

The term "[personal services](#)" in nearly all cases where it is used in the code means "work performed by an individual in connection with a [trade or business](#)". Here is an example:

[26 CFR Sec. 1.469-9 Rules for certain rental real estate activities.](#)

(b)(4) **PERSONAL SERVICES.**

Personal services means any work performed by an individual in connection with a [trade or business](#). However, personal services do not include any work performed by an individual in the individual's capacity as an investor as described in section 1.469-5T(f)(2)(ii).

The only place in the code where "[personal services](#)" is mentioned outside the context of a "trade or business" is the case where earnings from it are NOT taxable:

[26 U.S.C. §861 Income from Sources Within the United States](#)

(a)(3) "...Compensation for labor or **personal services** performed in the United States **shall not** be deemed to be income from sources within the United States if-

(C) the compensation for labor or services performed as an [employee](#) of or under contract with--

(i) a [nonresident alien](#)..not engaged in a [trade or business in the United States...](#)"

Therefore, whenever you see the term "personal services", it means "work performed by an individual in connection with a 'trade or business'" unless specifically defined otherwise. This will become very important when we are talking about earnings of "U.S. citizens" who are abroad.

4.3 "United States"

The term "United States" is also a synonym for "[trade or business](#)" under the I.R.C. in most cases. Under [26 U.S.C. §864\(c\)\(3\)](#), all earnings originating within the statutory "[United States](#)", which is defined as federal territory in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and 4 U.S.C. §110(d) is also treated as "effectively connected with a [trade or business](#)".

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)
[§ 864. Definitions and special rules](#)

(c) **Effectively connected income, etc.**

(3) **Other income from sources within United States**

All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

Therefore, whenever you see the phrase "sources within the [United States](#)" associated with any earnings, then indirectly, it is being associated with a "[trade or business](#)". This is the case for [26 U.S.C. §871](#)(a), which identifies income of nonresident aliens from only from within the statutory "United States*" (federal territory) that is not connected to a "[trade or business](#)". [26 U.S.C. §864](#)(c)(3) says that this income is ALSO connected with a trade or business if it was derived from sources within the statutory but not constitutional "United States*" (federal territory). [26 U.S.C. §864](#)(c)(2) identifies all sources of income not associated with a "[trade or business](#)" and they include ONLY:

- [26 U.S.C. §871](#)(a)(1): Income of nonresident aliens other than capital gains derived from patents, copyrights, sale of original issue discounts, gains described in [I.R.C. 631](#)(b) or (c), interest, dividends, rents, salaries, premiums, annuities from sources within the statutory "United States*" (federal territory).
- [26 U.S.C. 871](#)(h): Earnings of nonresident aliens from portfolio debt instruments
- [26 U.S.C. §881](#)(a): Earnings of foreign corporations from patents, copyrights, gains, and interest not connected with a trade or business.

26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) define the statutory "United States*" in a "geographical sense" only as being federal territories and possessions.

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)
[Sec. 7701. - Definitions](#)

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof

(9) *United States*

The term "United States" when used in a geographical sense includes only the [States](#) and the District of Columbia.

(10) *State*

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
CHAPTER 4 - THE STATES

[Sec. 110. Same; definitions](#)

(d) **The term "State" includes any [Territory](#) or possession of the United States.**

However, I.R.C. Section 864 above does not directly state or imply a "geographical sense", so it may have some *other* undefined meaning. We allege that the ONLY way that working for a living can be an excise taxable privilege or "trade or business" is where the Constitution itself, in Article 1, Section 8, Clause 17 requires all "public offices" ("trades or businesses"), to be exercised, which is the District of Columbia:

United States Constitution
Article I: Legislative Department
Section 8: Powers of Congress
Clause 17: Seat of Government

*Congress shall have power * * * To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.*

Since accepting a public office in the federal government is a voluntary act, then the tax is voluntary. If you don't want to pay it, you don't accept or run for the office. In furtherance of the above, [4 U.S.C. §72](#) requires all "public offices" that are the subject of the tax upon a "trade or business" to be exercised ONLY in the District of Columbia and NOT elsewhere, except as "expressly provided by law":

[TITLE 4 > CHAPTER 3 > § 72](#)
[§ 72. Public offices: at seat of Government](#)

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except

as otherwise expressly provided by law.

Therefore, all persons engaged in public offices MUST serve ONLY in the District of Columbia and not elsewhere, and there is no enactment of Congress authorizing them to serve in any state of the Union. Therefore, the term "United States" as used throughout Subtitle A of the Internal Revenue Code:

1. Does not imply a "geographical sense", because that phrase is never used in combination with the term "United States" anywhere we could find. Instead, this definition is a red herring.
2. Does not imply any state of the Union or any part of any state of the Union.
3. Implies the United States government or "national government" and not the "federal government" of the states of the Union. See Federalist Paper #39 for details.
4. Applies only to persons domiciled on federal territory called the "United States" and subject to the exclusive or general or plenary jurisdiction of Congress. 26 U.S.C. §911(d)(3) requires that a person cannot have a "tax home" unless their "abode", meaning "domicile", is within the "United States". The tax is applied against the "tax home" of the "individual", which individual is a "public officer" within the United States government. States of the Union are not "territory" as that word is correctly understood within American legal jurisprudence.

Consequently, "sources within the United States" really refers to payments to or from the U.S. government, all of which are enumerated and described and listed in 26 U.S.C. §871 in the context of nonresident aliens. Subtitle A of the I.R.C. is therefore a "kickback program" for federal instrumentalities, domiciliaries, franchises, and employees, and the "profit and loss" statement for these instrumentalities is I.R.S. form 1040. The tax is on the "profit" of these instrumentalities, which the I.R.S. calls "income". 26 U.S.C. §643(b) confirms that "income" means the earnings of a trust or estate connected with a public office and NOT all earnings. That "trust" is the "public trust". Government is a "public trust" per Executive Order 12731 and 5 CFR §2635.101(a). If you never received a payment from the government or accepted a payment on behalf of the government while acting in a representative capacity as a "public officer", then we allege that you cannot be a "taxpayer" or have a tax liability pursuant to Subtitle A of the I.R.C.

*"Loughborough v. Blake, 5 Wheat. 317, 5 L. ed. 98, was an action of trespass or, as appears by the original record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. It was insisted that Congress could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia. **In the latter character, it was admitted that the power of levying direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' inasmuch as the District was no part of the United States [described in the Constitution]. It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States.** The fact that art. 1, 2, declares that 'representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers' furnished a standard by which taxes were apportioned, but not to exempt any part of the country from their operation. 'The words used do not mean that direct taxes shall be imposed on states only which are represented, or shall be apportioned to representatives; **but that direct taxation, in its application to states, shall be apportioned to numbers.**' That art. 1, 9, 4, declaring that direct taxes shall be laid in proportion to the census, was applicable to the District of Columbia, 'and will enable Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion to the census or enumeration referred to.' It was further held that the words of the 9th section did not 'in terms require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of the 2d section require that it shall be extended to all the states. They therefore may, without violence, be understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.'"
[Downes v. Bidwell, 182 U.S. 244 (1901)]*

The conclusions of this section are also consistent with 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d), which both effectively kidnap a "taxpayers" identity and move it to the District of Columbia for the purposes of Subtitle A of the I.R.C. The "citizen" and "resident" they are talking about in these statutes are statutory and not constitutional "citizens" and "residents" which rely on the statutory term "United States", which means a person domiciled on federal territory and NOT domiciled within any state of the Union. Why would they need such a provision and why would they try to fool you into declaring yourself to be a statutory "U.S. citizen" using their deceptive forms if they REALLY had jurisdiction within states of the Union? More about this later.

4.4 Statutory "citizen of the United States" or "U.S.** citizen"**

You may wonder as we have how it is that Congress can make it a crime to falsely claim to be a statutory "U.S. citizen" in 18 U.S.C. §911.

[TITLE 18 > PART I > CHAPTER 43 > § 911](#)
[§ 911. Citizen of the United States](#)

*Whoever falsely and willfully represents himself to be a **citizen of the United States**[**] shall be fined under this title or imprisoned not more than three years, or both.*

The reason is that you cannot tax or regulate something until abusing it becomes harmful. A "license", after all, is legally defined as permission from the state to do that which is otherwise illegal or harmful or both. And of course, you can only tax or regulate things that are harmful and

licensed. Hence, they had to:

1. Create yet another franchise.
2. Attach a "status" to the franchise called "citizen of the United States**", where "United States" implies the GOVERNMENT and not any geographical place.
3. Criminalize the abuse of the "status" and the rights that attach to the status.
4. Make adopting the status entirely discretionary on the part of those participating. Hence, invoking the "status" and the "benefits" and "privileges" associated with the status constitutes constructive consent to abide by all the statutes that regulate the status.

[California Civil Code](#)

DIVISION 3. OBLIGATIONS

PART 2. CONTRACTS

TITLE 1. NATURE OF A CONTRACT

CHAPTER 3. CONSENT

1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations arising from it, so far as the facts are known, or ought to be known, to the person accepting.

[SOURCE:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=civ&group=01001-02000&file=1565-1590>]

5. Impose a tax or fine or "licensing fee" for those adopting or invoking the status. That tax, in fact, is the federal income tax codified in I.R.C. Subtitle A.

Every type of franchise works and is implemented exactly the same way, and the statutory "U.S. citizen" or "citizen of the United States**" franchise is no different. This section will prove that being a "citizen of the United States**" under the I.R.C. is, in fact, a franchise, that the franchise began in 1924 by judicial pronouncement, and that because the status is a franchise and all franchises are voluntary, you don't have to participate, accept the "benefits", or pay for the costs of the franchise if you don't consent.

As you will eventually learn, one becomes a "citizen" in a common law or constitutional sense by being born or naturalized in a country and exercising their First Amendment right of political association by voluntarily choosing a national and a municipal domicile in that country. How can Congress criminalize the exercise of the First Amendment right to politically associate with a "state" and thereby become a citizen? After all, the courts have routinely held that Congress cannot criminalize the exercise of a right protected by the Constitution.

"It is an unconstitutional deprivation of due process for the government to penalize a person merely because he has exercised a protected statutory or constitutional right. United States v. Goodwin, 457 U.S. 368, 372, 102 S.Ct. 2485, 2488, 73 L.Ed.2d 74 (1982)."

[*People of Territory of Guam v. Fegurgur, 800 F.2d 1470 (9th Cir. 1986)*]

Even the U.S. Code recognizes the protected First Amendment right to not associate during the passport application process. Being a statutory and not constitutional "citizen" is an example of type of membership, because domicile is civil membership in a territorial community usually called a county, and you cannot be a "citizen" without a domicile:

[TITLE 22](#) > [CHAPTER 38](#) > § 2721

[§ 2721. Impermissible basis for denial of passports](#)

*A passport may not be denied issuance, revoked, restricted, or otherwise limited because of any speech, activity, belief, **affiliation, or membership, within or outside the United States**, which, if held or conducted within the United States, would be protected by the first amendment to the Constitution of the United States.*

The answer to how Congress can criminalize the exercise of a First Amendment protected right of political association that is the foundation of becoming a "citizen" therefore lies in the fact that the statutory "U.S.** citizen" mentioned in 18 U.S.C. §911 is not a constitutional citizen protected by the Constitution, but rather is:

1. Not a human being or a private person but a statutory creation of Congress. The ability to regulate private conduct, according to the U.S. Supreme Court, is repugnant to the U.S. Constitution and therefore Congress can ONLY regulate public conduct and the public offices and franchises that it creates.

"The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese, 92 U.S. 214, 218 (1876); United States v. Harris, 106 U.S. 629, 639 (1883); James v. Bowman, 190 U.S. 127, 139 (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964); United States v. Guest, 383 U.S. 745 (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned."

[*City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 (1997)*]

2. A statutory franchise and a federal corporation created on federal territory and domiciled there. Notice the key language "**Whenever the public and private acts of the government seem to comingle [in this case, through the offering and enforcement of PRIVATE franchises to the public at large such as income taxes], a citizen or corporate body must by supposition be substituted in its place...**" What Congress did was perform this substitution in the franchise agreement itself (the I.R.C.) BEFORE the controversy ever even reached the court such that this judicial doctrine could be COVERTLY applied! They want to keep their secret weapon secret.

See also *Clearfield Trust Co. v. United States*, 318 U.S. 363, 369 (1943) ("**The United States does business on business terms**") (quoting *United States v. National Exchange Bank of Baltimore*, 270 U.S. 527, 534 (1926)); *Perry v. United States*, supra at 352 (1935) ("**When the United States, with constitutional authority, makes contracts for franchises, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference . . . except that the United States cannot be sued without its consent**") (citation omitted); *United States v. Bostwick*, 94 U.S. 53, 66 (1877) ("**The United States, when they contract with their citizens, are controlled by the same laws that govern the citizen in that behalf**"; *Cooke v. United States*, 91 U.S. 389, 398 (1875) (explaining that when the United States "**comes down from its position of sovereignty, and enters the domain of commerce, it submits itself to the same laws that govern individuals there**").

See *Jones*, 1 Cl.Ct. at 85 ("**Wherever the public and private acts of the government seem to commingle, a citizen or corporate body must by supposition be substituted in its place, and then the question be determined whether the action will lie against the supposed defendant**"; *O'Neill v. United States*, 231 Ct.Cl. 823, 826 (1982) (sovereign acts doctrine applies where, "[w]ere [the] contracts exclusively between private parties, the party hurt by such governing action could not claim compensation from the other party for the governing action"). The dissent ignores these statements (including the statement from *Jones*, from which case *Horowitz* drew its reasoning literally verbatim), when it says, post at 931, that the sovereign acts cases do not emphasize the need to treat the government-as-contractor the same as a private party.
[*United States v. Winstar Corp.* 518 U.S. 839 (1996)]

3. Property of the U.S. government. All franchises and statuses incurred under franchises are property of the government grantor. The government has always had the right to criminalize abuses of its property.
4. A public office in the government like all other franchise statuses.
5. An officer of a corporation, which is "U.S. Inc." and is described in 28 U.S.C. §3002(15)(A). All federal corporations are "citizens", and therefore a statutory "U.S. citizen" is really just the corporation that you are representing as a public officer.

"A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."
[19 *Corpus Juris Secundum*, Corporations, §886]

Ordinarily, and especially in the case of states of the Union, domicile within that state by the state "citizen" is the determining factor as to whether an income tax is owed to the state by that citizen:

"**domicile**. A person's legal home. That place where a man has his true, fixed, and **permanent home** and principal establishment, and to which whenever he is absent he has **the intention of** returning. *Smith v. Smith*, 206 Pa.Super. 310m 213 A.2d 94. Generally, physical presence within a state and **the intention** to make it one's home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place to which he **intends to** return even though he may actually reside elsewhere. A person may have more than one residence but only one domicile. **The legal domicile of a person is important since it, rather than the actual residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges.**"
[*Black's Law Dictionary*, Sixth Edition, p. 485]

"**Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth Amendment makes one a citizen of the state wherein he resides, the fact of residence creates universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course, the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious illustration being a tax on realty laid by the state in which the realty is located.**"

[*Miller Brothers Co. v. Maryland*, 347 U.S. 340 (1954)]

We also establish the connection between domicile and tax liability in the following article.

[Why Domicile and Becoming a "Taxpayer" Require Your Consent](http://sedm.org/Forms/FormIndex.htm), Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

The U.S. Supreme Court confirmed that the statutory "citizen of the United States**" mentioned in the Internal Revenue Code at 26 U.S.C. §911 and at 26 CFR §1.1-1(c) is not associated with either domicile OR with constitutional citizenship (nationality) of the human being who is the "taxpayer" in the following case. The party they mentioned, Cook, was domiciled within Mexico at the time, which meant he was NOT a statutory "citizen of the United States**" under the Internal Revenue Code but rather a "nonresident alien". However, because he CLAIMED to be a statutory "citizen of the United States**" and the Supreme Court colluded with that FRAUD, they treated him as one ANYWAY.

We may make further exposition of the national power as the case depends upon it. It was illustrated at once in *United States v. Bennett* by a contrast with the power of a state. It was pointed out that there were limitations upon the latter that were not on the national power. **The taxing power of a state, it was decided, encountered at its**

borders the taxing power of other states and was limited by them. There was no such limitation, it was pointed out, upon the national power, and that the limitation upon the states affords, it was said, no ground for constructing a barrier around the United States, 'shutting that government off from the exertion of powers which inherently belong to it by virtue of its sovereignty.'

"The contention was rejected that a citizen's property without the limits of the United States derives no benefit from the United States. The contention, it was said, came from the confusion of thought in 'mistaking the scope and extent of the sovereign power of the United States as a nation and its relations to its citizens and their relation to it.' And that power in its scope and extent, it was decided, is based on the presumption that government by its very nature benefits the citizen and his property wherever found, and that opposition to it holds on to citizenship while it 'belittles and destroys its advantages and blessings by denying the possession by government of an essential power required to make citizenship completely beneficial.' In other words, the principle was declared that the government, by its very nature, benefits the citizen and his property wherever found, and therefore has the power to make the benefit complete. Or, to express it another way, the basis of the power to tax was not and cannot be made dependent upon the situs of the property in all cases, it being in or out of the United States, nor was not and cannot be made dependent upon the domicile of the citizen, that being in or out of the United States, but upon his relation as citizen to the United States and the relation of the latter to him as citizen. The consequence of the relations is that the native citizen who is taxed may have domicile, and the property from which his income is derived may have situs, in a foreign country and the tax be legal—the government having power to impose the tax."

[Cook v. Tait, 265 U.S. 47 (1924)]

So the key thing to note about the above is that the tax liability attaches to the STATUS of BEING a statutory but not constitutional "citizen of the United States" under the Internal Revenue Code, and NOT to domicile of the party, based on the above case.

"Or, to express it another way, the basis of the power to tax was not and cannot be made dependent upon the situs of the property in all cases, it being in or out of the United States, nor was not and cannot be made dependent upon the domicile of the citizen, that being in or out of the United States, but upon his relation as citizen to the United States and the relation of the latter to him as citizen. The consequence of the relations is that the native citizen who is taxed may have domicile, and the property from which his income is derived may have situs, in a foreign country and the tax be legal—the government having power to impose the tax."

[Cook v. Tait, 265 U.S. 47 (1924)]

There are only two ways to reach a nonresident party through the civil law: Domicile and contract.^[1] That status of being a statutory "U.S. citizen" under the Internal Revenue Code, in turn, can only be a franchise contract that establishes a "public office" in the U.S. government, which is the property of the U.S. Government that the creator of the franchise can regulate or tax ANYWHERE under the franchise "protection" contract. All rights that attach to STATUS are, in fact, franchises, and the Cook case is no exception. This, in fact, is why falsely claiming to be a "U.S. citizen" is a crime under 18 U.S.C. §911, because the status is "property" of the national government and abuse of said property or the public rights and "benefits" that attach to it is a crime. The use of the "Taxpayer Identification Number" then becomes a de facto "license" to exercise the privilege. You can't license something unless it is ILLEGAL to perform without a license, so they had to make it illegal to claim to be a statutory "U.S. citizen" before they could license it and tax it.

How can they tax someone without a domicile in the "United States" and with no earnings from the United States in the case of Cook, you might ask? Well, the REAL "taxpayer" is a public office in the U.S. government. That office REPRESENTS the United States federal corporation. All corporations are "citizens" of the place of their incorporation, and therefore under Federal Rule of Civil Procedure 17(b), the effective domicile of the "taxpayer" is the District of Columbia.^[2] All taxes are a civil liability that are implemented with civil law. The only way they could have reached extraterritorially with civil law to tax Cook without him having a domicile or residence anywhere in the statutory "United States***" was through a private law franchise contract in which he was a public officer. It is a maxim of law that debt and contract know no place, meaning that they can be enforced anywhere.

*Debt and contract [franchise agreement, in this case] are of no particular place.
Locus contractus regit actum.*

*The place of the contract [franchise agreement, in this case] governs the act.
[Bouvier's Maxims of Law, 1856;*

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

The feds have jurisdiction over their own public officers wherever they are but the EFFECTIVE civil domicile of all such offices and officers is the District of Columbia pursuant to Fed.R.Civ.P. 17(b). Hence, the ONLY thing such a statutory "citizen of the United States***" could be within the I.R.C. is a statutory creation of Congress that is actually a public office which is domiciled in the statutory but not constitutional "United States**" in order for the ruling in Cook to be constitutional or even lawful. AND, according to the Cook case, having that status is a discretionary choice that has NOTHING to do with your circumstances, because Cook was NOT a statutory "citizen of the United States***" as someone not domiciled in the statutory but not constitutional "United States***". Instead, he was a nonresident alien but the court allowed him to accept the voluntary "benefit" of the statutory status and hence, it had nothing to do with his circumstances, but rather his CHOICE to nominate a "protector" and join a franchise. Simply INVOKING the status of being a statutory "citizen of the United States***" on a government form is the only magic word needed to give one's consent to become a "taxpayer" in that case. It is what the court called a "benefit", and all "benefits" are voluntary and the product of a franchise contract. It was a quasi-contract as all taxes are, because the consent was implied rather than explicit, and it manifested itself by using property of the government, which in this case was the STATUS he claimed.

*"Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 292, et seq. 8 S.Ct. 1370, compare Fautleroy v. Lum, 210 U.S. 230, 28 S.Ct. 641, **still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit. United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence.** Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. —, 2 Ans.Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. "
[Milwaukee v. White, 296 U.S. 268 (1935)]*

You might reasonably ask of the Cook case, as we have, the following question:

"HOW did the government create the public office that they could tax and which Cook apparently occupied as a franchisee?"

Well, apparently the "citizen of the United States***" status he claimed is a franchise and an office in the U.S. government that carries with it the "public right" to make certain demands upon those who claim this status. Hence, it represents a "property interest" in the services of the United States federal corporation. In law, all rights are property, anything that conveys rights is property, contracts convey rights and are therefore property, and all franchises are contracts and therefore property. A "public officer" is legally defined as someone in charge of the property of the public, and the property Cook was in possession of was the public rights that attach to the status of being a statutory "citizen of the United States***".

*"Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 1nd.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413, 52 P.2d 483, 486. **Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with Independent power to control the property of the public,** or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio St. 33. 29 N.E. 593.*

[Black's Law Dictionary, Fourth Edition, p. 1235]

For Cook, the statutory status of being a "citizen of the United States***" was the "res" that "identified" him within the jurisdiction of the federal courts, and hence made him a "res-ident" or "resident" subject to the tax with standing to sue in a territorial franchise court, which is what all U.S. District Courts are. In effect, he waived sovereign immunity and became a statutory "resident alien" by invoking the services of the federal courts, and as such, he had to pay for their services by paying the tax. Otherwise, he would have no standing to sue in the first place because he would be a "stateless person" and they would have had to dismiss his case.

If you would like a much more thorough discussion of all of the nuances of the Cook case, we strongly recommend the following:

[Federal Jurisdiction, Form #05.018, Section 6](http://sedm.org/Forms/FormIndex.htm)

<http://sedm.org/Forms/FormIndex.htm>

Here is another HUGE clue about what they think a "U.S. citizen" really is in federal statutes. Look at the definition below, and then consider that you CAN'T own a human being as property. That's called slavery:

[TITLE 46 > Subtitle V > Part A > CHAPTER 505 > § 50501](#)

[§ 50501. Entities deemed citizens of the United States](#)

(a) **In General.**—

*In this subtitle, **a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States.** However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.*

Now look at what the U.S. Supreme Court said about "ownership" of human beings. You can't "own" a human being as chattel. The Thirteenth Amendment prohibits that. Therefore, the statutory "U.S. citizen" they are talking about above is an instrumentality and public office within the United States. They can only tax, regulate, and legislate for PUBLIC objects and public offices of the United States under Article 4, Section 3, Clause 2. The ability to regulate PRIVATE conduct of human beings has repeatedly been held by the U.S. Supreme Court to be "repugnant to

the constitution" and beyond the jurisdiction of Congress.

"It [the contract] is, in substance and effect, a contract for servitude, with no limitation but that of time; leaving the master to determine what the service should be, and the place where and the person to whom it should be rendered. Such a contract, it is scarcely necessary to say, is against the policy of our institutions and laws. If such a sale of service could be lawfully made for five years, it might, from the same reasons, for ten, and so for the term of one's life. The door would thus be opened for a species of servitude inconsistent with the first and fundamental article of our declaration of rights, which, proprio vigore, not only abolished every vestige of slavery then existing in the commonwealth, but rendered every form of it thereafter legally impossible. That article has always been regarded, not simply as the declaration of an abstract principle, but as having the active force and conclusive authority of law.' Observing that one who voluntarily subjected himself to the laws of the state must find in them the rule of restraint as well as the rule of action, the court proceeded: 'Under this contract the plaintiff had no claim for the labor of the servant for the term of five years, or for any term whatever. She was under no legal obligation to remain in his service. There was no time during which her service was due to the plaintiff, and during which she was kept from such service by the acts of the defendants.'

[. . .]

Under the contract of service it was at the volition of the master to entail service upon these appellants for an indefinite period. So far as the record discloses, it was an accident that the vessel came back to San Francisco when it did. By the shipping articles, the appellants could not quit the vessel until it returned to a port of the *296 United States, and such return depended absolutely upon the will of the master. **He had only to land at foreign ports, and keep the vessel away from the United States, in order to prevent the appellants from leaving his service.**

[. . .]

The supreme law of the land now declares that involuntary servitude, except as a punishment for crime, of which the party shall have been duly convicted, shall not exist any where within the United States.
[Robertson v. Baldwin, 165 U.S. 275, 17 S.Ct. 326 (U.S. 1897)]

Federal courts also frequently use the phrase "privileges and immunities of citizens of the United States". Below is an example:

"The privileges and immunities of citizens of the United States do not necessarily include all the rights protected by the first eight amendments to the Federal Constitution against the powers of the Federal Government.

The trial of a person accused as a criminal by a jury of only eight persons instead of twelve, and his subsequent imprisonment after conviction do not abridge his privileges and immunities under the Constitution as a citizen of the United States and do not deprive him of his liberty without due process of law."
[Maxwell v. Dow, 176 U.S. 581 (1899)]

Note that the "citizen of the United States****" described above is a statutory rather than constitutional citizen, which is why the court admits that the rights of such a person are inferior to those possessed by a "citizen" within the meaning of the United States Constitution. A constitutional but not statutory citizen is, in fact, NOT "privileged" in any way and none of the rights guaranteed by the Constitution can truthfully be called "privileges" without violating the law. It is a tort and a violation of due process, in fact, to convert rights protected by the Constitution and the common law into "privileges" or franchises or "public rights" under statutory law without at least your consent, which anyone in their right mind should NEVER give.

"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution." Frost & Frost Trucking Co. v. Railroad Comm'n of California, 271 U.S. 583. "Constitutional rights would be of little value if they could be indirectly denied,' Smith v. Allwright, 321 US. 649, 644, or manipulated out of existence [by converting them into statutory "privileges"/franchises],' Gomillion v. Lightfoot, 364 U.S. 339, 345."
[Harman v. Forssenius, 380 U.S 528 at 540, 85 S.Ct. 1177, 1185 (1965)]

It is furthermore proven in the following memorandum of law that civil statutory civil law pertains almost exclusively to government officers and employers and cannot and does not pertain to human beings or private persons not engaged in federal franchises/privileges:

Why Statutory Civil Law is Law for Government and Not Private Persons. Form #05.037
<http://sedm.org/Forms/FormIndex.htm>

Consequently, if a court refers to "privileges and immunities" in relation to you, chances are they are presuming, usually FALSELY, that you are a statutory "U.S. citizen" and NOT a constitutional citizen. If you want to prevent them from making such false presumptions, we recommend attaching the following forms at least to your initial complaint and/or response in any action in court:

1. Federal Pleading/Motion/Petition Attachment, Litigation Tool #01.002
<http://sedm.org/Litigation/LitIndex.htm>
2. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001
<http://sedm.org/Forms/FormIndex.htm>

If you would like to know more about the devious abuse of franchises to destroy your rights and break the chains of the Constitution that bind your public servants and protect your rights, see:

[Government Instituted Slavery Using Franchises](http://sedm.org/Forms/FormIndex.htm), Form #05.030
<http://sedm.org/Forms/FormIndex.htm>

[1] See [Great IRS Hoax](#), Form #11.302, Section 5.2.4 : The Two Sources of Federal Civil Jurisdiction: "Domicile" and "Contract"; <http://sedm.org/Forms/FormIndex.htm>.

[2] "A corporation is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only." [19 Corpus Juris Secundum, Corporations, §886 TA vs "19 Corpus Juris Secundum, Corporations, §886"]

5. I.R.C. requirements for the exercise of a "trade or business"

Next, we must search the code for the uses of the term "[trade or business](#)" to define how it applies by using the context. Below is a summary of our findings:

1. For "individuals", who are ALL "aliens" under the I.R.C., only income either "effectively connected with a [trade or business](#) in the [United States](#)" or originating from the District of Columbia and earned by a nonresident alien under [26 U.S.C. 871\(a\)](#) are considered "[gross income](#)" under I.R.C. Subtitle A. Statutory "[U.S. citizens](#)" can only earn "[taxable income](#)" when they are living abroad, in which case they become "[aliens](#)" under the provisions of a treaty with a foreign country. ONLY in that condition are they the proper subject of the Internal Revenue Code AFTER volunteering to be "[taxpayers](#)":

NORMAL TAXES AND SURTAXES
DETERMINATION OF TAX LIABILITY
Tax on Individuals
[Sec. 1.1-1 Income tax on individuals.](#)

*(a)(2)(ii) For taxable years beginning after December 31, 1970, **the tax imposed by section 1(d) [married individuals filing separately], as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c) [unmarried individuals], as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United States for all or part of the taxable year.** See paragraph (b)(2) of section 1.871-8.*

[26 CFR § 1.1-1]

2. Those who are "self employed" do not earn "[gross income](#)" unless it is connected to a "[trade or business](#)":

[TITLE 26 > Subtitle A > CHAPTER 2 > §1402](#)
[§1402: Definitions](#)

(a) Net earnings from self-employment

The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member;

....

3. The only indirect excise taxable activity connected with a biological person and which is subject to Subtitle A of the Internal Revenue Code is identified in [26 CFR §1.861-8\(f\)\(1\)\(iv\)](#) as "income effectively connected with a trade or business" of a "nonresident alien". Therefore, the only earnings of a nonresident alien that can be included in "gross income" are those "effectively connected with a trade or business" (e.g. performance of a public office in the District of Columbia):

Title 26: Internal Revenue
[PART 1—INCOME TAXES](#)

[Determination of Sources of Income](#)

[§1.861-8](#) Computation of taxable income from sources within the United States and from other sources and activities.

(f) Miscellaneous matters.

(1) Operative sections.

The operative sections of the Code which require the determination of taxable income of the taxpayer from specific sources or activities and which give rise to statutory groupings to which this section is applicable

include the sections described below.

(iv) Effectively connected taxable income.

Nonresident alien individuals and foreign corporations engaged in trade or business within the United States, under sections 871(b)(1) and 882(a)(1), on taxable income [federal payments] which is effectively connected with the conduct of a trade or business within the [federal] United States. Such taxable income is determined in most instances by initially determining, under section 864(c), the amount of gross income which is effectively connected with the conduct of a trade or business within the United States. Pursuant to sections 873 and 882(c), this section is applicable for purposes of determining the deductions from such gross income (other than the deduction for interest expense allowed to foreign corporations (see section 1.882-5)) which are to be taken into account in determining taxable income. See example (21) of paragraph (g) of this section.

[SOURCE: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=ffec583671411651209c041f59a8e75a&rgn=div8&view=text&node=26:9.0.1.1.0.4.74&idno=26>]

4. Statutory but not constitutional "U.S. Citizens" abroad whose earnings are subject to tax include only those with income "effectively connected with a [trade or business](#)". By statutory "[U.S. Citizen](#)", we mean those born anywhere in the country and [domiciled](#) on federal territory within the District of Columbia or the territories of the [United States](#), as discussed in the previous chapter starting in section 4.11:

[TITLE 26](#) > [Subtitle A](#) > [CHAPTER 1](#) > [Subchapter N](#) > [PART III](#) > [Subpart B](#) > § 911
[§ 911. Citizens or residents of the United States living abroad](#)

(a) Exclusion from gross income

At the election of a qualified individual (made separately with respect to paragraphs (1) and (2)), there shall be excluded from the gross income of such individual, and exempt from taxation under this subtitle, for any taxable year -

- (1) *the foreign earned income of such individual, and*
(2) *the housing cost amount of such individual.* (d) *Definitions and special rules*

(b) Foreign earned income

(1) Definition

For purposes of this section -

(A) In general

The term "foreign earned income" with respect to any individual means the amount received by such individual from sources within a foreign country or countries which constitute earned income attributable to services performed by such individual during the period described in subparagraph (A) or

(B) of subsection (d)(1), whichever is applicable. (B) Certain amounts not included in foreign earned income

The foreign earned income for an individual shall not include amounts -

- (i) *received as a pension or annuity,*
(ii) *paid by the United States or an agency thereof to an employee of the United States or an agency thereof,*
(iii) *included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust) or section 403(c) (relating to taxability of beneficiary under a nonqualified annuity), or*
(iv) *received after the close of the taxable year following the taxable year in which the services to which the amounts are attributable are performed.*

[. . .]

(d) *Definitions and special rules*

For purposes of this section -

[. . .]

(2) *Earned income*

(A) *In general*

The term "earned income" means wages, salaries, or professional fees, and other amounts received as **compensation for personal services actually rendered**, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered.

(B) Taxpayer engaged in **trade or business**

In the case of a taxpayer engaged in a **trade or business** in which both **personal services** and capital are material income-producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income.

The key "word of art" above is the term "**personal services**" which 26 CFR §1.469-9 says means "work performed by an individual in connection with a **trade or business**". Therefore, "**U.S. citizens**" abroad who are not involved in a "**trade or business**" do not earn "taxable income" because they are not engaged in an excise taxable activity. Notice also that the term "abroad" is never defined anywhere in the Internal Revenue Code AND that the 50 states of the Union are NOT "domestic" as domestic is used in the Code. They instead are "foreign" for the purposes of legislative jurisdiction, as we emphasize throughout this chapter. Also notice that there is no mention anywhere within the entire I.R.C. of the status of taxability of earnings of statutory "**U.S. citizens**" situated outside the statutory "United States*" (federal territory) within the code but NOT abroad. That is because they ARE NOT subject to the Internal Revenue Code, and can't even volunteer to be subject to a prima facie statute that they are not even within the territorial jurisdiction of.

5. Earnings from labor rendered by a "**nonresident alien**", even if within the "**United States**" (federal zone), to a foreign corporation or foreign partnership that is not involved in a "trade or business in the **United States**" (public office) is not includible as "**gross income**". Ditto for earnings from a "**foreign country**", which includes states of the Union, as we pointed out earlier in section 5.2.13. Here is the proof:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > §864](#)
[§864. Definitions and special rules](#)

(b) Trade or business within the United States

For purposes of this part, part II, and chapter 3, the term "trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but **does not include**—

(1) Performance of personal services for foreign employer

The performance of personal services—

(A) for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, or

(B) for an office or place of business maintained in a foreign country or in a possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership or a domestic corporation,

6. Whether a legal "person" is considered "resident" or "nonresident" has nothing to do with where it was organized, incorporated or where it has a physical residence. Instead, it is determined by whether the organization is engaged in a "trade or business". Therefore, if you aren't engaged in a "trade or business", even if you are domiciled in the District of Columbia, then you are a "nonresident". Here is the proof:

[26 CFR §301.7701-5 Domestic, foreign, resident, and nonresident persons.](#)

A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. **A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation. A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.**

[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]

If you examine the above list, there are only four statuses or conditions throughout the I.R.C. that don't specifically mention that they must be connected to a "**trade or business**" in order to qualify as "**gross income**", which are:

1. Married individuals" under [26 U.S.C. §1\(a\)](#). Not mentioned in item 1 above.
2. Heads of household" under [26 U.S.C. §1\(b\)](#). Not mentioned in item 1 above.
3. Domestic International Sales Corporations (DISC) involved in foreign commerce.
4. Foreign Sales Corporations (FSC) involved in foreign commerce.

We know that the first two are ALSO involved in a "trade or business" because in the only place they are mentioned in the I.R.C., which is [26 U.S.C. §1\(a\)](#) and 1(b), a graduated rate of tax appears there. There is no way to elect a flat 30% tax rate as a "Married individual" or "Head of household" without declaring oneself as a "nonresident alien" coming under the provisions of [26 U.S.C. §871\(a\)](#) INSTEAD of these two provisions. Furthermore, the requirement for "equal protection of the laws", found in [Section 1 of the Fourteenth Amendment](#) and in [42 U.S.C. 1981\(a\)](#), mandates that "Heads of Household" and "Married individuals" shall be subjected to the same burdens, taxes, and penalties as "Married individuals filing separately" or "Unmarried individuals" or they would be discriminated against. Therefore, they too must be engaged in a "trade or business" in order to earn "[taxable income](#)" as well. We also know that the graduated rate of tax cannot be implemented in states of the Union, because they are not "uniform", meaning that everyone doesn't pay the same percentage, as required by the U.S. Constitution, Article 1, Section 8, Clause 1, which says:

U.S. Constitution
[Article 1, Section 8, Clause 3](#)

*The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; **but all Duties, Imposts and Excises shall be uniform [same percentage] throughout the United States [and upon all "persons"]***

The reason all excise taxes within states of the Union must be uniform throughout the states and have the same percentage on all persons is that if they weren't, then the federal government would be depriving sovereign American Nationals in the states of "equal protection of the laws". However, the Constitutional requirement for "equal protection" does not apply within areas under exclusive federal jurisdiction, such as the District of Columbia, under [Article 1](#), Section 8, Clause 17 of the Constitution, and under [Article 4](#), Section 3, Clause 2 of the Constitution. There have been at least two state supreme Court rulings consistent with this conclusion, which declared that graduated rate income taxes are unconstitutional within states of the Union. See *Culliton v. Chase*, 25 P.2d 81 (1933) and *Jensen v. Henneford*, 53 P.2d 607 (1936). You will also learn later in this section that those who elect for a graduated rate of tax are "effectively connected with a [trade or business](#) in the [United States](#)" under [26 U.S.C. §871\(b\)](#).

We'll now provide a table summarizing our findings to show the excise taxable activity for each type of entity to make the results of this survey of the I.R.C. crystal clear. Note that all the taxable activities must occur within exclusive federal jurisdiction under [Article 1](#), Section 8, Clause 17 of the Constitution, or else they become "extortion under the color of law". The federal government cannot collect or assess taxes in areas where it has no legislative jurisdiction:

Table 1: Taxable activity under I.R.C. by type of entity

#	Entitle name	Entity type	Citizenship status	Excise taxable Activity	I.R.C. Section	Regulation	Notes
1	Married Individual	Natural person	" Resident alien " or " U.S. citizen abroad "	"trade or business"	26 U.S.C. §1(a) imposes the tax 26 U.S.C. §864(c))3) says all earnings from the statutory "United States**" (federal territory) are considered to be from a "trade or business"	26 CFR §1.861-8(f)(1) lists all the taxable activities, that are includible in "gross income" and the only one connected with a natural person is a nonresident alien engaged in a "trade or business"	Must be engaged in a "trade or business" to earn "taxable income"
2	Head of Household	Natural person	" Resident alien " or " U.S. citizen abroad "	"trade or business"	26 U.S.C. §1(b) imposes the tax 26 U.S.C. §864(c))3) says all earnings from the statutory "United States**" (federal territory) are considered to be from a	26 CFR §1.861-8(f)(1) lists all the taxable activities, that are includible in "gross income" and the only one connected with a natural person is a nonresident alien engaged in a "trade or business"	Must be engaged in a "trade or business" to earn "taxable income"

					"trade or business"		
3	Married Individual Filing Separately	Natural person	" Resident alien " or " U.S. citizen abroad"	"trade or business"	26 U.S.C. §1(c) imposes the tax	26 CFR §1.1-1(a)(2)(ii) says must be engaged in "trade or business" to earn "taxable income" 26 CFR §1.861-8(f)(1) lists all the taxable activities, that are includible in "gross income" and the only one connected with a natural person is a nonresident alien engaged in a "trade or business"	Must be engaged in a "trade or business" to earn "taxable income"
4	Unmarried Individual	Natural person	" Resident alien " or " U.S. citizen abroad"	"trade or business"	26 U.S.C. §1(d) imposes the tax	26 CFR §1.1-1(a)(2)(ii) says must be engaged in "trade or business" to earn "taxable income"	Must be engaged in a "trade or business" to earn "taxable income"
5	Estate or trust	Artificial entity	" U.S. citizen " domiciled in the statutory "United States**" (federal territory)	Transfer of property	I.R.C. Subtitle B 26 U.S.C. §2001 imposes tax 26 U.S.C. §2002 creates liability		Only applies to "U.S. citizens" or "Resident aliens" domiciled in the federal zone and NOT in a state of the Union. See <i>Knowlton v. Moore</i> , 178 U.S. 41 (1900)
6	American national living in a state of the Union	Natural person	" national but not citizen " under 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1452	None (nontaxpayer)	26 U.S.C. §864(b)(1)(A) says earnings not includible in "gross income" if paid to a "nonresident alien" 26 U.S.C. §861(a)(3)(C)(i) says earnings of a nonresident alien not connected with a "trade or business" is not deemed income from sources within the U.S.	26 CFR §1.861-8(f)(1) lists all the taxable activities, that are includible in "gross income" and the only one connected with a natural person is a nonresident alien engaged in a "trade or business"	Nontaxpayer not subject o the Internal Revenue Code.
7	Exempt Organization	Artificial organization (DBA)	" Resident alien " or " U.S. citizen "	"trade or business"	26 U.S.C. §501		See IRS Publication 598 and search for the phrase "trade or business" and you will be surprised by what you find. That publication basically says if the organization is engaged in a "trade or business" that is not

							substantially related to its exempt purpose.
8	Federal Corporation	Corporation (DISC or FSC)	" U.S. citizen "	"trade or business"	26 U.S.C. §11 imposes the tax.	26 CFR §1.861-8(f)(1) lists all the taxable activities, that are includible in "gross income" and the only one connected with a natural person is a nonresident alien engaged in a "trade or business"	
9	Federal Corporation	Corporation	" U.S. citizen "	"foreign commerce"	26 U.S.C. §4081(a) imposes tax on imported petroleum		Imposed under Subtitle D on imported petroleum. This is a constitutional tax.
10	State (not federally registered) Corporation	Corporation	"state citizen" but not " U.S. citizen "	None. A "nontaxpayer"	No federal legislative jurisdiction inside states of the Union.		Not subject to IRS jurisdiction.

6. Why I.R.C. Subtitle A income taxes are "indirect" and Constitutional

Of I.R.C. Subtitle A income taxes, the U.S. Supreme Court has said:

*"...the requirement to pay [excise] taxes involves the exercise of privilege."
[Flint vs. Stone Tracy Co., [220 U.S. 107](#) (1911)]*

"We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it..."

*"[Taxation of "income" is] in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment which otherwise as an excise would not apply to it" (That is, if the "income" tax ever comes to be administered as something other than an excise, or on something unsuited to an excise, the rule of apportionment must be applied.)
[Brushaber v. Union Pacific R. Co., [240 U.S. 1](#) (1916)]*

*"The provisions of the Sixteenth Amendment conferred no new power of taxation . . ."
[Stanton v. Baltic Mining Co., [240 U.S. 103](#) (1916)]*

*"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects..."
[Peck v. Lowe, [247 U.S. 165](#) (1918)]*

*"We must reject... ...the broad contention submitted in behalf of the government that all receipts-- everything that comes in-- are income..."
[So. Pacific v. Lowe, [247 U.S. 330](#) (1918)]*

Therefore, [Subtitle A of the I.R.C.](#) describes an indirect excise tax upon "privileges". If it ain't a privilege, then they can't tax it. Neither can the government lawfully tax the exercise of a right, such as the right to work and support yourself, unless that right is exercised coincident with a "privilege" of federal employment, agency, or benefits.

"PRIVILEGE: A particular benefit or advantage enjoyed by a person, company, or class beyond the common advantages of others citizens. An exceptional or extraordinary power of exemption. A particular right, advantage, exemption, power, franchise, or immunity held by a person or class, not generally possessed by others."
 [Black's Law Dictionary, 6th Ed., p. 1197]

"It has been well said that 'the property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property'."
 [Butcher Union Co. v. Crescent City Co., [111 U.S. 746](#) (1883)]

"Included in the right of personal liberty and the right of private property- partaking of the nature of each- is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property"
 [Coppage v. Kansas, [236 U.S. 1](#) (1915)]

*"Every man has a natural right to the fruits of his own labor, is generally admitted; and **no other person can rightfully deprive him of those fruits, and appropriate them against his will...**"*
 [The Antelope, [23 U.S. 66](#); 10 Wheat 66; 6 L.Ed. 268 (1825)]

Now that we have thoroughly analyzed why Subtitle A of the Internal Revenue Code describes an "excise" tax on a taxable activity called a "trade or business" and why it is NOT a "direct" tax within the meaning of the Constitution, we are now ready to deal with one last important issue that generates a lot of questions in people's minds. Recall from discussion earlier in section 5.1.5 and following that we said that Subtitle A is not only an "excise tax" but that it is "indirect". An "indirect" excise tax falls on artificial entities and not directly upon natural persons. Most people have a hard time viewing IRC Subtitle A donations as being "indirect" because we pay them personally to the I.R.S. rather than as an agent of a separate artificial entity or business. So how then is [I.R.C. Subtitle A](#) in truth and in fact "indirect"? We have prepared a table to clarify all the reasons why [Subtitle A of the Internal Revenue Code](#) meets all the criteria for being an "indirect excise" as we have said previously:

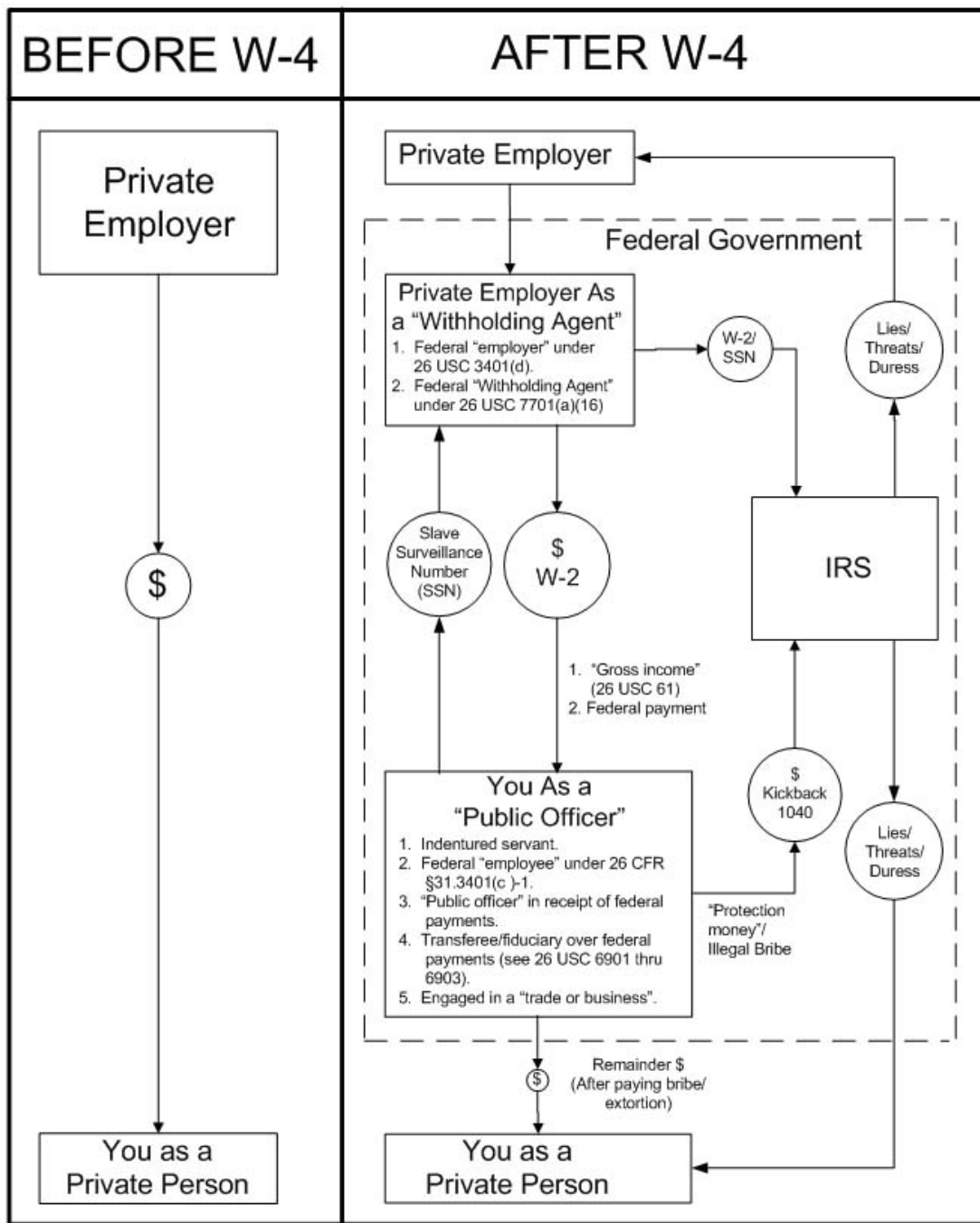
Table 5-41: What makes [IRC Subtitle A](#) an [Indirect Excise Tax](#)

#	Characteristics of indirect excise taxes	Description
1	Taxable privilege	Exercising a "public office", which is called a "trade or business" in 26 U.S.C. §7701(a)(26) .
2	"License" that identifies us as engaging in the privilege	<ol style="list-style-type: none"> <u>Filing a W-4 with your private employer.</u> When you file a W-4, you signed an "agreement"/contract (see 26 CFR §31.3401(a)-3). This agreement made you into a recipient, "transferee", and "fiduciary" over payments to the federal government under 26 U.S.C. §6901 . It also constituted an agreement under 26 CFR §31.3402(p)-1 to include all of your earnings from the employer receiving the W-4 on a tax "return" as "gross income". Your private employer is no longer paying you directly and you effectively become a "subcontractor" to the U.S. government, who is your intermediary and real "employer". Instead, your private employer is paying a "strawman" or artificial entity called a federal "employee" acting on behalf of the government as a "transferee" and "fiduciary". The all caps name on the W-4 and the SSN associated with the all caps name is the "res" or artificial entity that describes the federal subcontractor that you are representing. The SSN or TIN and the all caps "strawman" name on the pay stub that your private employer gives you is evidence that the payment is a payment to the federal government which is federal property because this number can only be used for keeping track of federal payments and "receipts". The money your private employer pays you are "earnings" of a U.S. government subcontractor. Recall that "income", within the meaning of the Constitution is "corporate profit". The U.S. government is described as a "federal corporation" in 28 U.S.C. §3002(15)(A). The "profit" of this federal corporation is the "tax" deducted from the payment and "returned" to the corporation using a tax "return". The SSN is a vehicle the government uses to keep track of federal payments and federal subcontractors called "employees" who are managing these payments and returning "taxes", which are "corporate profit" payments, to their rightful owner. <u>Filing a form 1040 rather than the correct 1040NR.</u> The IRS Published Products catalog says this form can only be filed by "citizens or residents of the United States", all of whom are domiciled ONLY in the statutory "United States*" (federal territory) (see 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d)). Under 26 U.S.C. §864(c)(3), all earnings within the statutory "United States*" (federal territory) are "effectively connected with a trade or business", so you must be engaged in a "trade or business" whether you realize it or not if you file form 1040 instead of the proper form 1040NR.
3	License number	Taxpayer Identification Number (TIN) or Social Security Number (SSN)
4	How privilege is exercised	<ol style="list-style-type: none"> Receiving payments destined for the federal government from private parties, like employers and financial institutions. These payments are public property that can only be handled by "public officers". Ability to claim deductions on tax return.

		<p>3. Ability to apply graduated rate rather than fixed rate.</p> <p>4. Ability to claim exemptions and earned income credit on a tax return.</p> <p>Being domiciled on federal territory in the statutory but not constitutional "United States**".</p>
5	Affect of accepting privilege	<p>1. Acting as a "transferee", "fiduciary", and "trustee" over payments made to the federal government.</p> <p>2. Lose control over earnings. They don't become yours until the federal overpayment is returned in the form of a "tax"/"kickback".</p> <p>3. Subject to federal jurisdiction because in custody of federal overpayment. Jurisdiction is "in rem" under Article 4, Section 3. Clause 2 of the Constitution.</p> <p>4. IRS can enforce I.R.C. without implementing regulations. See 44 U.S.C. §1501(a)(1), 5 USC §552(a)(1), 5 USC §553(a)(2).</p>
6	Why tax is an excise tax	The tax is on an activity that can be avoided and therefore is not direct. If you don't want to pay the tax, then don't exercise any of the "privileges" associated with a "trade or business" listed in item 2 above.
7	Why tax is "indirect"	Because the "tax" is treated as a kickback of a federal overpayment. Between the time the overpayment is received and the time it is "returned" as a "tax" to the U.S. government, the recipient is a "transferee" and a "trustee" and a "fiduciary" over federal funds and is <u>not</u> acting on his own behalf.
8	Tax measured by	Taxable income, which is "gross income" minus deductions and exemptions.

A picture is worth a thousand words. Below is a diagram showing the condition of those who are employed by private employers and who have consented to participate in the federal tax system by completing a W-4. This diagram shows graphically the relationships described in the table above.

Figure 5-2: Employment arrangement of those involved in a "trade or business"



NOTES ON ABOVE DIAGRAM:

1. The I.R.C. Subtitle A income tax is NOT implemented through public law or positive law, but primarily through private law. Private law always supersedes enacted positive law because no court or government can interfere with your right to contract. See Article 1, Section 10 of the Constitution for the proof. The W-4 is a contract, and the United States has jurisdiction over its own property and employees under Article 4, Section 3, Clause 2, wherever they may reside, including in places where it has no legislative jurisdiction. The W-4 you signed is a private contract that makes you into a federal employee, and neither the state nor the federal government may interfere with the private right to contract. [26 CFR §31.3402\(p\)-1](#) identifies the W-4 as an "agreement", which is a contract. It doesn't say that on the form, because your covetous government doesn't want you to know you are signing a contract by submitting a W-4.
2. The "tax" is not paid by you, but by your "strawman", who is a federal "public officer" engaged in a "trade or business" as defined in [26 U.S.C. §7701\(a\)\(26\)](#). That "public officer" you volunteered to represent is working as a federal "employee" who is part of the United States government, which is defined as a federal corporation in [28 U.S.C. §3002\(15\)\(A\)](#). In that sense, the "tax" is indirect, because you don't pay it, but your strawman, who is a "public officer", pays it to your "employer", the federal government, which is a federal corporation.
3. Because you are presumed by the IRS to be a federal "employee" and you work for an unspecified and unidentified federal corporation, then you are acting as an "officer or employee of a federal corporation" and you:
 - 3.1. Are the proper subject of the penalty statutes, as defined under [26 U.S.C. §6671\(b\)](#).
 - 3.2. May have the code enforced against you without implementing regulations as required by [44 U.S.C. §1505\(a\)\(1\)](#) and [5 U.S.C. §553\(a\)\(2\)](#)
4. The "activity" of performing a "trade or business" is only "taxable" when executed in the statutory "United States***" is defined as in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and 4 U.S.C. §110(d). See [26 U.S.C. §864](#) and this section for evidence.

5. Those who file form 1040 instead of the proper form 1040NR provide evidence under penalty of perjury that they are "U.S. persons" (see 26 U.S.C. 7701(a)(30) who are domiciled in the statutory but not constitutional "United States*" (federal territory). The IRS Published Products catalog says the form can only be used for "citizens or residents" of the "[United States](#)", which is defined as federal territory in the I.R.C..

7. Who's "trade or business": The PAYER, the PAYEE, or BOTH?

Every transaction must involve the de facto government and therefore public rights and franchises in order to qualify as an excise taxable event. The income tax under I.R.C. Subtitle A, as we all well know, is a franchise/excise tax. The only context in which the statutory definition of "[United States](#)" makes any sense at all is in fact to treat it as an excise/franchise tax. The "United States" in the I.R.C. then becomes the franchisor in a virtual and not a physical or geographical sense. The ability to regulate, tax, or burden private conduct is beyond the reach of the Constitution, and therefore the activity must involve publici juris and public rights to be taxable.

*"The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese, [92 U.S. 214, 218](#) (1876); United States v. Harris, [106 U.S. 629, 639](#) (1883); James v. Bowman, [190 U.S. 127, 139](#) (1903). Although the specific holdings of these early cases might have been superseded or modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, [379 U.S. 241](#) (1964); United States v. Guest, [383 U.S. 745](#) (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned."
[\[City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 \(1997\)\]](#)*

Every transaction involving the government has two parties: The payer and the payee. That is why the tax is upon both "trade or business" earnings and "U.S. source" earnings: The payer is always a public officer in the government and the recipient is either a resident alien individual or a nonresident alien "individual" receiving payments from this "U.S. source" if the transaction is taxable to EITHER party. This is made clear by 26 U.S.C. §7701(a)(31), which says that the transaction is not "gross income" and is "foreign" and beyond the jurisdiction of the I.R.C. if it does not involve one of these two aspects, meaning if it does not involve a public officer payer OR an "individual" recipient:

[TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)
[§ 7701. Definitions](#)

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof

(31) Foreign estate or trust

(A) **Foreign estate** The term "foreign estate" means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) **Foreign trust** The term "foreign trust" means any trust other than a trust described in subparagraph (E) of paragraph (30).

Whenever a taxable payment occurs, an information return is filed usually by the payer, who in law must always be treated as a public officer in the government, meaning a "source within the United States" (government, not geographical USA). 26 U.S.C. §6041(a) says that the information return can only be filed in connection with a "trade or business", meaning that at least one end of the transaction must involve a public officer in the government.

[TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041](#)
[§ 6041. Information at source](#)

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section [6042 \(a\)\(1\)](#), [6044 \(a\)\(1\)](#), [6047 \(e\)](#), [6049 \(a\)](#), or [6050N \(a\)](#) applies, and other than payments with respect to which a statement is required under the authority of section [6042 \(a\)\(2\)](#), [6044 \(a\)\(2\)](#), or [6045](#)), of \$600 or more in any taxable year, **or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.**

Our job is to figure out WHICH end of the transaction is a public officer, because that is the only one subject to the code and therefore a "taxpayer". The PAYOR can be a public officer and therefore a "taxpayer" as defined in 26 U.S.C. §7701(a)(14) while the PAYEE can be a nonresident and a "nontaxpayer". It makes no sense to report a transaction or withhold, in fact, if the PAYEE is not a "taxpayer".

26 U.S.C. §6041 gives us a clue to the puzzle: it says the PAYER must file the information return and is engaged in a "trade or business", but it doesn't say that the PAYEE ALSO is involved in a "trade or business" as a public officer. Therefore, as a bare minimum every transaction involves a PAYER who is a public officer and therefore a "taxpayer" engaged in a "trade or business". We still don't yet know how the PAYEE would be treated in such a transaction, but as a bare minimum, we know that it is in receipt of "U.S. source" income from a public officer within the "United States" government. Some clues, though:

1. Congress only has jurisdiction over PUBLIC activity. The U.S. Supreme Court has held that the ability to regulate private conduct is "repugnant to the Constitution". The constitution exists, in fact, to keep private conduct beyond the reach of the government. Consequently, BOTH parties to the transaction must be acting in a public capacity as public officers and therefore "taxpayers".
2. If the PAYER was a public officer and a "taxpayer" but the PAYEE was not, then the I.R.C. would be injuring private parties and interfering with the right to contract of both parties by imposing duties above and beyond the contract between them. The Constitution was created to protect your right to contract, and therefore they can't tax or withhold within such a transaction. Frank Kowalik in his wonderful book "IRS Humbug" analyzes this aspect of all such payments and agrees with us on this point.
3. 26 U.S.C. §6041(a) uses the phrase "another person" to refer to the payee. so the PAYEE obviously must also be a "taxpayer" and a "person" subject to the code in order for the reporting to occur. Furthermore, if the recipient were NOT such a "person", they would have no liability and therefore would also not be subject to withholding. Withholding is only required for "taxpayers".

An example of payment that would not be taxable or reportable is one made to a nonresident who is not an alien or an "individual". This would be the case with those in the military who file nonresident alien withholding paperwork such as the Form W-8BEN, who modify block 3 of the form to indicate that they are "nonresident" but not "individuals", and who are enlisted rather than commissioned officers. When the transaction involves only one "taxpayer", the code does NOT create a liability to report against the withholding agent because the recipient is not a "person" (or "another person" as referred to in 26 U.S.C. §6041(a) and 26 U.S.C. §1461) as a nonresident. The code is civil law that is not enforceable against nonresidents. All civil law attaches to the choice of domicile of the parties and cannot operate beyond the territory of the law making power unless:

1. A contract or franchise extends its reach beyond the territory of the sovereign. That franchise or contract, if it is a GOVERNMENT contract, however, CANNOT operate within a state of the Union protected by the Constitution because the rights of those domiciled there are "unalienable", which means that they can't be sold, transferred, or bargained away through any commercial process. Franchises such as a "trade or business" are commercial processes and contracts.

*"We hold these truths to be self-evident, that **all men are created equal, that they are endowed by their Creator with certain unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness.-- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -"*

[Declaration of Independence]

*"Unalienable. Inalienable; incapable of being aliened, that is, sold and transferred."
[Black's Law Dictionary, Fourth Edition, p. 1693]*

2. It operates on a domiciliary temporarily abroad but not within a state of the Union under 26 U.S.C. §911.

26 U.S.C. §1461 makes the PAYER liable to deduct and withhold payment to another "person" but a nonresident cannot be a "person" within the meaning of this civil provision because all civil law attaches to one's choice of domicile:

[TITLE 26](#) > [Subtitle A](#) > [CHAPTER 3](#) > [Subchapter B](#) > § 1461
§ 1461. Liability for withheld tax

***Every person** required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of **any person** for the amount of any payments made in accordance with the provisions of this chapter.*

The foregoing considerations would lead, in case of doubt, to a construction of any statute as intended to be confined in its operation and effect to the territorial limits over which the lawmaker has general and legitimate power. 'All legislation is prima facie territorial.' Ex parte Blain, L. R. 12 Ch. Div. 522, 528; State v. Carter, 27 N. J. L. 499; People v. Merrill, 2 Park. Crim. Rep. 590, 596. Words having universal scope, such as 'every contract in restraint of trade,' 'every person who shall monopolize,' etc., will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch. In the case of the present statute, the improbability of the United States attempting to make acts done in Panama or Costa Rica criminal is obvious, yet the law begins by making criminal the acts for which it gives a right to sue. We think it entirely plain that what the defendant did in Panama or Costa Rica is not within the scope of the statute so far as the present suit is concerned. Other objections of a serious nature are urged, but need not be discussed.

[American Banana Co. v. U.S. Fruit, 213 U.S. 347 at 357-358]

The phrase "general or legitimate power" imply "general and exclusive jurisdiction", not subject matter jurisdiction. The feds only have general jurisdiction within federal territory. In a state, they have limited and subject matter jurisdiction ONLY and NOT general jurisdiction. That is not to say that they don't have jurisdiction over ALL PEOPLE within a state. They always have jurisdiction over those domiciled on federal territory, regardless of where they are situated, including in a state, but they don't have such jurisdiction within a state of those domiciled outside of federal territory and who therefore are not statutory "U.S. citizens", "U.S. residents", and "U.S. persons". The following article emphasizes this point, but is FLAT OUT WRONG in concluding that District Courts in the States of the Union are Article III courts. They have NEVER been given this power. The only thing they can or do is officiate over are Article 4, Section 3, Clause 2 franchises such as income taxes, Social Security, etc. and crimes committed on federal territory where they enjoy general jurisdiction. The [What Happened to Justice book](#) proves this with thousands of pages of evidence.

Conflicts in a Nutshell

§22 Federal Subject Matter Jurisdiction

Because of our federal system, in which more than 50 sovereigns function within the framework of a national sovereign, the federal court structure is unique in that its principal trial court, the U.S. District Court, is a court of limited rather than general jurisdiction. The state is left to supply the "general" court. The federal constitution permits Congress to confer on federal courts of its creation only such jurisdiction as is outlined in section 2 of Article III. Hence the source of these federal limitations is the constitution itself.

Even within the federal system, however, one can find courts of general jurisdiction. Areas within the jurisdiction of the United States that lack their own sovereignty, and thus a court system of their own, must depend on the federal legislature for a complete court system: the District of Columbia and the few remaining territories of the United States are in this category. For them, Congress has the power (from Article I of the constitution for the District and from Article IV of the constitution for the territories) to create courts of general jurisdiction. **But Congress has no such power with respect to the states, for which reason all of the federal courts sitting within the states, including the district courts, must trace their powers to those within the limits of Article III and are hence courts of "limited" jurisdiction.**

This is one reason why issues of subject matter jurisdiction arise more frequently in the federal system than in state courts. Another is that for a variety of reasons, federal jurisdiction is often preferred by a plaintiff who has a choice of forums. Taken together, this means that more cases near the subject matter jurisdiction borderline appear in the federal than in the state courts.

One of the major sources of federal subject matter jurisdiction is the diversity of citizenship of the parties. It authorizes federal suit even though the dispute involves no issues of federal law. The statute that authorizes this jurisdiction, however (28 U.S.C.A. 1332), requires that there be more than \$75,000 in controversy. A plaintiff near that figure and who wants federal jurisdiction will try for it, while a defendant who prefers that the state courts hear the case may try to get it dismissed from federal court on the ground that it can't support a judgment for more than \$75,000.

A major source of federal jurisdiction is that the case "arises under" federal law, the phrase the constitution itself uses (Article III, §2). Unless it so arises, there is no subject matter jurisdiction under this caption, and whether it does or does not is often the subject of a dispute between the parties to a federal action.

For these and other reasons, the study of "subject matter" jurisdiction is a more extensive one in federal than in state practice. Indeed, a law school course on federal courts is likely to be devoted in the main to subject matter jurisdiction, with a correspondingly similar time allotment left for mere procedure, rather the reverse of what usually occurs in a course studying the state courts.

[Conflicts in a Nutshell by David D. Siegel and Patrick J. Borchers, ISBN 0-314-160669-3, 3rd Edition, West Group, pp. 39-41]

So there are two criteria: The PAYER and the PAYEE must BOTH be "persons" and therefore "taxpayers" within the I.R.C., which is civil law that attaches to their mutual domiciles, in order for either reporting or withholding to lawfully occur. If only the PAYER is a "person" but the payee is NOT, then the transaction is not "gross income" TO THE PAYEE. The term "person" is defined in 26 U.S.C. §7701(c) to include "individuals", but "individual" in turn does not include statutory or constitutional "citizens" per 26 CFR §1.1441-1(c)(3). Therefore, both the PAYER and the PAYEE MUST be aliens and not citizens engaged in privileged activities. See:

Sovereignty Forms and Instructions Online, Form #10.004, Cites by Topic: Individual
<http://famguardian.org/TaxFreedom/CitesByTopic/Individual.htm>

All of these games with "words of art" relating to Effectively Connected Income (ECI) are designed to disguise and confuse WHICH end of the transaction is a "taxpayer": the PAYER, the PAYEE, or BOTH. Statutes such as 26 U.S.C. §881(a), for instance, refer to the "recipient", meaning the PAYEE:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART II > Subpart B > § 881](#)
[§ 881. Tax on income of foreign corporations not connected with United States business](#)

(a) Imposition of tax

Except as provided in subsection (c), **there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a foreign corporation as—**

(1) interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(2) gains described in section 631 (b) or (c),

(3) in the case of—

(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into

account under subparagraph (B)), and

(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not exceed the payment less the tax imposed by paragraph (1) thereon), and

(4) gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged,

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

An amount can only be "received" by a PAYEE.

1. We already know the PAYER is a public officer and a "taxpayer" and therefore a "person" under the I.R.C. because 26 U.S.C. §6041(a) admitted he/she/it had to be engaged in a "trade or business" in order to report the transaction.
2. 26 U.S.C. §1461 also said that the PAYER is only liable if BOTH ends of the transaction are "persons" and therefore "taxpayers". A "nonresident" would NOT be subject to the code and therefore NOT a "person", "individual", or "taxpayer". See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002

<http://sedm.org/Forms/FormIndex.htm>

3. 26 U.S.C. §7701(a)(31) also says that when NEITHER the PAYER nor the PAYEE are engaged in public office ("trade or business") and the payment does not originate from "sources within the United States", meaning the de facto government, then the transaction isn't taxable.

26 U.S.C. §864(c)(3) at first glance might appear to confuse this explanation, but in fact it doesn't. It implies that "sources within the United States" and "trade or business" are synonymous when in fact they aren't the same for BOTH parties to the transaction:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)
[§ 864. Definitions and special rules](#)

(c) Effectively connected income, etc.

(3) Other income from sources within United States

All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

There is no contradiction because the PAYER is ALWAYS a public officer and therefore a "U.S. source" and a "taxpayer" on one side of the coin while the PAYEE can be a nonresident and yet also not a "taxpayer", "individual", or "person" on the other side of the same coin. Everyone serving in a public office within the U.S. government is, by definition, a "source within the United States" if they are making a payment to someone else in their official capacity. Once again: EVERY TRANSACTION has two ends, and it depends which end you are looking at. You need to be VERY clear from the language which end it is and what you are looking for, because the language will try to confuse the ends to make it look like EVERYONE is a "taxpayer", "individual", and therefore "person". Clues to which end of the transaction they are talking about:

1. PAYER: Words used would be "paid", "making payment".
2. PAYEE: Words used would be "received", "amount received".

Another fact is also important that people like Pete Hendrickson chronically overlook. Yes, an information return always involves a "trade or business" because 26 U.S.C. §6041(a) says so. However, does it ALSO imply or require or impute that the PAYEE is engaged in a "trade or business"? A worthy exercise would be to go through all the instruction forms for information returns and the IRS publications to see what they say about WHICH ends of the transaction must be engaged in a "trade or business". We did a cursory look and they almost always talk to the FILER of the information return and use the phrase "YOUR trade or business", as though they are implying that the PAYER is the ONLY one engaged in the public office.

How then, does the PAYEE become involved in a "trade or business" if the information return doesn't imply it? Below are the MAIN techniques":

1. Taking deductions under 26 U.S.C. §162, all of which require those taking them to be engaged in a "trade or business". See section 14.1 later
2. Using a RESIDENT tax form, the 1040. The "United States" that a person is a "resident" (alien) in relation to is the GOVERNMENT, and not the geographical USA. The "United States" one is a "resident" of is the government, and the "person" who is the resident is the public office within the government, and not the human being filling the office. See section 14.4 later
3. Using government de facto license numbers such as SSNs and TINs. 26 CFR §301.6109-1(b) says that these numbers are only required by those engaged in a "trade or business" and who are "U.S. persons", meaning people domiciled on federal territory that is no

part of any state of the Union. See section 14.3 later and also the following:

[About SSNs and TINs on Government Forms and Correspondence, Form #04.104](http://sedm.org/Forms/FormIndex.htm)
<http://sedm.org/Forms/FormIndex.htm>

To summarize the findings of this section:

1. The language within the I.R.C. surrounding the use of the word "trade or business" is very deliberately and cunningly trying to confuse you about which end of the transaction is the public officer and therefore the "taxpayer" because they want you to assume EVERYONE is a "taxpayer", "person", and "individual". If they were more honest, they would have referred directly to the words "PAYER" and "PAYEE".
2. Every transaction has TWO parties, a PAYER, and a PAYEE.

2.1. The PAYER is always a public officer and a "taxpayer", and therefore a "person" and "U.S. person" (26 U.S.C. §7701(a)(30)) subject to federal law. A "public office" making payments to a nonresident, for instance, is a "U.S. source" and the PAYER is a "trade or business" but the payee is NOT. Some PAYEES unlawfully compel the nonresident to "elect" himself into public office by compelling them to procure and use an identifying numbers before they will make the payment. This is a criminal violation of 42 U.S.C. §408(a)(8) and 18 U.S.C. §912 and causes perjury on the Forms SS-5, W-7, and W-9 in the case of a nonresident domiciled in a state of the union who does not ALREADY occupy a public office BEFORE they made application for the number.

2.2. The PAYEE most often is, in reality, a nonresident who is neither a "person", "individual", nor "taxpayer" but who wrongfully thinks they are because of the deliberate and calculated confusion in the code you point out.

3. Everything the PAYEE receives from the PAYER is, by definition, "U.S. source income" because the "U.S." means the government, and not the geographical sense. 26 U.S.C. §7701(a)(9) and (a)(10) is a red herring, because it uses the phrase "geographical sense", but nowhere is the "geographical sense" of the word ever expressly invoked throughout the entire 9500 page Internal Revenue Code.

3.1. The payment is ECI IN RELATION TO THE PAYER while also being. . .

3.2. "U.S. source" and NOT ECI in relation to a PAYEE who is NOT engaged in a "trade or business" or who is nonresident.

3.3. It is only taxable, reportable, or subject to withholding if BOTH the PAYER and the PAYEE are "persons", "U.S. persons", and "taxpayers" domiciled on federal territory. It isn't taxable if either end of the transaction is a nonresident and therefore not a "person", "individual", or "taxpayer". Domicile is the origin of the liability for tax. That is why there are so many statutes mentioned in the Nonresident Alien position booklet that say that nonresidents don't earn reportable income. This is made clear below:

[About IRS Form W-8BEN](http://sedm.org/Forms/FormIndex.htm), Form #04.202, Section 4
<http://sedm.org/Forms/FormIndex.htm>

8. Willful government deception in connection with a "trade or business"

It's pretty obvious that your public servants don't want you to know about this "trade or business" scam, because then the gravy train of plunder and their welfare check would have to stop and they would have to get a REAL job. What steps have they taken to obfuscate the truth about this very important issue? Here is a brief summary of their dishonest techniques:

1. They made it "appear" in [26 U.S.C. §871\(a\)](#) that income not connected with a "trade or business" from within the "United States" was subject to mandatory 30% tax. However:
 - 1.1 [26 CFR §1.871-7\(d\)\(2\)\(ii\)](#) says that the nonresident alien must be present in the United States for 183 days out of the year or more in order to be subject to the taxes on sale or exchange of capital assets, in which case he isn't a nonresident alien anymore by the "presence test". Quite a scam, huh?
 - 1.2 [26 CFR §1.871-7\(b\)\(1\)](#) says that the following types of income from within the statutory "United States*" (federal territory) are taxable to "nonresident alien individuals" not engaged in a "trade or business": "*interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments, but other items of fixed or determinable annual or periodical gains, profits, or income are also subject to the tax, as, for instance, royalties, including royalties for the use of patents, copyrights, secret processes and formulas, and other like property*". The [Classification Act of 1923, 42 Stat. 1988](#), then defines all these types of income as being from the federal government only. See our article on this fraud: [The Classification Act of 1923, Great IRS Hoax](#), section 6.5.16.
2. They never explicitly state the simple truth anywhere in any IRS publication that we could find that if you aren't involved in a "trade or business" within the "United States" as a person who has a domicile there (such as a "U.S. citizen" or "resident alien"), then you don't earn "gross income" and are a "nontaxpayer" not subject to the I.R.C. [26 U.S.C. §7701\(a\)\(31\)](#), [26 CFR 1.1-1\(a\)\(2\)\(ii\)](#), and [26 CFR 1.861-8\(f\)\(1\)\(iv\)](#) are the only places that make this fact very clear, but it isn't simply and explicitly explained anywhere else in the code or regulations, and these sections are something that could easily be overlooked by the average American.
3. They did not directly state the excise taxable activities subject to tax in a single, simple list anywhere within the Internal Revenue Code. Instead, they left that statement to be made by the Secretary of the Treasury, which he did in [26 CFR §1.861-8\(f\)\(1\)](#). This section of regulations is one that few people read or refer to, and therefore they have kept the truth out of plain view of most tax professionals.
4. Those who have read and understand [26 CFR §1.861-8\(f\)\(1\)](#) and who raise it in litigation have been persecuted and slandered by the IRS and corrupted federal judges and falsely called "frivolous" without justifying why it is frivolous. However, they are the frivolous ones because no federal judge that we know of has ever or would ever deal in their ruling directly with the issue of the "excise taxable activities" identified in [26 CFR §1.861-8\(f\)\(1\)](#) because they would have to admit that:
 - 4.1. Subtitle A of the Internal Revenue Code is an indirect excise tax.

- 4.2. People and property within states of the Union are not the proper subject of Subtitle A of the Internal Revenue Code.
- 4.3. The only "taxable activities" under the I.R.C. are either public offices in the United States government or "foreign commerce" of federally registered corporations.
- 4.4. Natural persons can only be involved in a "taxable activity" if they hold a public office in the United States government or a federal territory or possession, or are acting in the capacity as an officer of a federally chartered corporation that is involved in foreign commerce licensed under [26 U.S.C. §7001](#). Remember: The way an activity becomes excise taxable is the issuance of a "license". Requesting a "license" or accepting a government "privilege" is the essence of how a person volunteers to pay an excise tax.

Now, let's look at some of the devious ways that the IRS creates false presumptions to deceive people living in the states of the Union into admitting under penalty of perjury on the wrong tax return, the 1040, that they are involved in a "trade or business" and that they are subject to exclusive federal jurisdiction, even though we know that neither is true. We refer you to IRS Publication 519, Year 2000 version, which says starting on p. 17:

The 30% Tax

*Tax at a 30% (or lower treaty) rate applies to certain **items of income** or gains from U.S. sources but only if the items are not effectively connected with your U.S. trade or business.*

Fixed or Determinable Income

The 30% (or lower treaty) rate applies to the gross amount of U.S. source fixed or determinable annual or periodic gains, profits, or income

[. . .]

Social Security Benefits

A nonresident alien must include 85% of any U.S. social security benefit (and the social security equivalent part of a tier 1 railroad retirement benefit) in U.S. source fixed or determinable annual or periodic income. This income is exempt under some tax treaties. See Table 1 in Publication 901, U.S. Tax Treaties, for a list of tax treaties that exempt U.S. social security benefits from U.S. tax.

[IRS Publication 519: U.S. Tax Guide for Aliens, Year 2000, p. 17]

Well, first of all, the above statement is misleading, because they never defined the word "[income](#)" and the Supreme Court said in *Eisner v. Macomber* that the Congress can't define it and that ONLY the Constitution can define it, so they can't write any law authorizing the IRS to define it either! So what "[income](#)" are they talking about here? The only thing the Supreme Court has ever defined "income" to mean was profit from a corporation involved in foreign commerce, as we pointed out earlier in section 5.6.5. Why didn't they mention this? Because they don't want you to know!

Secondly, the only thing that can be talking about is earnings *not* connected with a "trade or business" described in 26 U.S.C. §871(a), which is the only place the 30% tax rate appears. Those earnings can only relate to payments originating from "sources within the United States" earned by "nonresident alien individuals", because that is what 26 U.S.C. §871 says. What are the "items of income" that are subject to this 30% tax? These "items of income" are listed in 26 U.S.C. §§862(a) and 863(a) TA \ "26 U.S.C. §§862(a) and 863(a)" \s "26 U.S.C. §§862(a) and 863(a)" \c 2 . Most of these "items of income" are then elsewhere excluded, as we showed earlier in this section. We showed, for instance that

1. Those who are "nonresident aliens" but not "nonresident alien individuals" are nowhere mentioned as having any liability at all. This includes those domiciled in states of the Union who are not "aliens" and therefore not "individuals". The liability to file a tax return described in 26 CFR §1.6012-1(b) only applies to "nonresident alien individuals", not "nonresident aliens" who are NOT "individuals". For further details, see the following:

[Nonresident Alien Position](#), Form #05.020

<http://sedm.org/Forms/FormIndex.htm>

2. 26 U.S.C. §7701(a)(31)(A) says that earnings not connected with a "trade or business" and not originating from the "United States" are a "foreign estate" not includible in "gross income". 26 U.S.C. §7701(a)(9) and (a)(10) defines this "United States" to mean the District of Columbia or federal statutory "State" (4 U.S.C. §110(d)) but not a state of the Union. Such an estate, including the earnings of people who are part of such an estate, would be "not subject" to the tax but at the same time not "exempt".

[TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)
[§ 7701. Definitions](#)

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(31) Foreign estate or trust

(A) Foreign estate

*The term "foreign estate" means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a [trade or business](#) within the [United States](#), is **not includible in gross income under subtitle A**.*

3. [26 U.S.C. §864](#)(b)(1)(A) *excludes* earnings of nonresident aliens who are working for nonresident aliens, even though [26 U.S.C. §862](#)(a)(3) would appear to create the false impression that such earnings are includible in "gross income".
4. Self-employment income is not counted as "gross income" under [26 U.S.C. §1402](#) if it does *not* involve a "trade or business".
5. Under [26 CFR §1.1-1](#)(a)(2)(ii) and [26 CFR §1.861-8](#)(f)(1)(iv), only income "effectively connected with a trade or business" is includible in gross income for biological people.

So what is left after one excludes the earnings indicated in the above requirements because the "person" being taxed is a "national" and a "nonresident alien" all of whose earnings are not "effectively connected with a trade or business" and originate outside the statutory "United States" (federal territory)? CORPORATE PROFIT OF A FEDERAL AND NOT STATE CORPORATION INVOLVED IN FOREIGN COMMERCE! That's what we already showed the Supreme Court said constituted "income" within the meaning of the [Sixteenth Amendment](#).

"Income [corporate profit from foreign commerce, in the context of taxes upon states of the Union] has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909 (36 Stat. 112) in the 16th Amendment, and in the various revenue acts subsequently passed."

[*Bowers v. Kerbaugh-Empire Co.*, [271 U.S. 170](#), 174, (1926)]

"The grant of the power to lay and collect taxes [on foreign commerce within the states ONLY] is, like the power to regulate commerce, made in general terms, and has never been understood to interfere with the exercise of the same power by the State; and hence has been drawn an argument which has been applied to the question under consideration. But the two grants are not, it is conceived, similar in their terms or their nature. Although many of the powers formerly [22 U.S. 1, 199] exercised by the States, are transferred to the government of the Union, yet the State governments remain, and constitute a most important part of our system. The power of taxation is indispensable to their existence, and is a power which, in its own nature, is capable of residing in, and being exercised by, different authorities at the same time. We are accustomed to see it placed, for different purposes, in different hands. Taxation is the simple operation of taking small portions from a perpetually accumulating mass, susceptible of almost infinite division; and a power in one to take what is necessary for certain purposes, is not, in its nature, incompatible with a power in another to take what is necessary for other purposes. Congress is authorized to lay and collect taxes [on foreign commerce ONLY within the states], and to pay the debts, and provide for the common defence and general welfare of the United States. This does not interfere with the power of the States to tax [internally] for the support of their own governments; nor is the exercise of that power by the States [to tax INTERNALLY], an exercise of any portion of the power that is granted to the United States [to tax EXTERNALLY]. In imposing taxes for State purposes, they are not doing what Congress is empowered to do. Congress is not empowered to tax for those purposes which are within the exclusive province of the States. When, then, each government exercises the power of taxation, neither is exercising the power of the other. But, when a State proceeds to regulate commerce with foreign nations, or among the several States, it is exercising the very power that is granted to Congress, [22 U.S. 1, 200] and is doing the very thing which Congress is authorized to do. There is no analogy, then, between the power of taxation and the power of regulating commerce. "

[*Gibbons v. Ogden*, [22 U.S. 21](#) (1824)]

[26 CFR §1.861-8](#)(f)(1) lists all these taxable activities, and they all come under treaties or are connected with what is called a Domestic International Sales Corporation (DISC) or a Foreign Sales Corporation (FSC). These weasels are slippery, aren't they? What they are trying to do is make an exclusively municipal excise tax that only applies to federal territory "look" like it applies to everyone in the country by encrypting and hiding the truth using "[words of art](#)". They contradict themselves in their own publication, because elsewhere, they admit that those who have income from outside the "[United States](#)" that is not connected with "[trade or business](#)" don't earn "[gross income](#)":

Income Subject to Tax

Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. *The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.*

[*IRS Publication 519, Year 2000, p. 26*]

The above claim within Publication 519 originates from 26 U.S.C. §7701(a)(31), which we cited at the beginning of this article. What they are saying is that only earnings from within the statutory "United States" (federal territory) and which are not connected with a "trade or business" are subject to the 30% tax rate, and that the income must be earned by "nonresident alien individuals" who are aliens and not "nationals", because citizens can't be taxed at home and aliens and nonresident aliens are excluded. The only thing left is foreign "persons", such as foreign corporations. If they simply commute daily to work there, they are "nonresident aliens" and therefore don't earn "gross income". Anything not connected with a "trade or business" that is earned outside of the statutory "United States" (federal territory) is therefore not includible as "gross income" at all. Anything earned inside the District of Columbia in connection with a public office is includible in "gross income" at the graduated, instead of 30% rate. Even then, one must consent voluntarily to be a "taxpayer" because there is no statute making anyone liable in either the D.C. Code or the I.R.C. That process is done by submitting a form and assessing oneself with a liability even though there is none. Once they "volunteer" by filling out and submitting the WRONG form, the 1040 form, and become "subject to" the I.R.C., they become virtual inhabitants of the District of Columbia under the provisions of 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d):

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)
[Sec. 7701. – Definitions](#)

(a)(39) *Persons residing outside [the federal] United States*

*If any **citizen or resident of the United States** does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to -*

*(A) jurisdiction of courts, or
(B) enforcement of summons.*

[TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter A > § 7408](#)
[§7408. Action to enjoin promoters of abusive tax shelters, etc.](#)

(d) *Citizens and residents outside the United States*

If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia.

If they REALLY had jurisdiction in a state of the Union to tax, do you think they would need provisions like those above? Note also that what "citizens and residents" have in common is a legal "domicile" in the statutory but not constitutional "United States*" (federal territory) pursuant to 26 U.S.C. §911(d)(3). When a person domiciled in a state of the Union who is rightfully a "nonresident alien" NON-individual fills out and sends in a 1040 form, rather than the correct 1040NR form, they are assumed to be a "citizen or resident of the United States" and an "individual", meaning a "resident alien" pursuant to 26 U.S.C. §7701(b)(1)(A). The "[United States](#)" in the context of subtitle A of the I.R.C. means federal territory that is not part of the exclusive jurisdiction of any constitutional state of the Union. It is redefined in other titles to include the 50 states, but in Subtitle A, it's definition is limited to that found in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and 4 U.S.C. §110(d). Therefore, they are claiming that they are domiciled on federal territory within the statutory but not constitutional "United States*". Did you know that by submitting an IRS form 1040, you were making an "voluntary election" to be treated as a domiciliary of the federal zone? They didn't tell you THAT in the IRS publications, now did they? Why not? Because they want to manufacture your legal ignorance in the public schools and then use their incomplete and deceptive publications to "harvest" the fruits of your ignorance. A fool and his money are soon parted. The public schools are the fool factory and the 1040 is the indenture that makes you into their willing, voluntary indentured slave. Below is what the IRS Published Products Catalog, year 2003 says about the purpose of the form 1040:

1040A 11327A Each
U.S. Individual Income Tax Return

*Annual income tax return **filed by citizens and residents of the United States**. There are separate instructions available for this item. The catalog number for the instructions is 12088U.*

W:CAR:MP:FP:F:I Tax Form or Instructions
[\[2003 IRS Published Products Catalog, p. F-15;](#)
SOURCE: <http://famguardian.org/TaxFreedom/Forms/IRS/IRSDoc7130.pdf>]

Under I.R.C. §7701(a)(39) above, they then become the equivalent of "virtual inhabitants" of the District of Columbia. If we then look in the [District of Columbia Code](#), we find that there isn't a liability statute in that code either so the IRS still requires our consent to call us a "[taxpayer](#)" no matter which way you look at it. This is covered in much more detail in the [Tax Fraud Prevention Manual](#), Chapter 3, section 3.5.3 if you want to investigate further. We also know that kidnapping is highly illegal under [18 U.S.C. §1201](#), and that making us into a "virtual inhabitant" of anything is the equivalent of kidnapping if done without our consent. Therefore, indirectly we must conclude that anyone who does not inhabit the District of Columbia must volunteer or consent to be a "[taxpayer](#)" before their "res" or legal identity can be transported to the District of Columbia. That process of volunteering is done using the IRS 1040 form and is done under the authority of [26 U.S.C. §6013\(g\)](#) for those who file as "[nonresident aliens](#)".

It gets worse, folks. Let's look at some of the deceit in IRS Publication 519 that tries to convince people falsely that they are involved in a "[trade or business](#)", or tricks them into admitting they are in the process of pursuing the "privilege" of having additional deductions. Below is what they say about how you can increase your deductions by claiming you are engaged in a "[trade or business](#)", from p. 23 of the Year 2000 edition of IRS Publication 519:

Itemized Deductions

*Nonresident aliens can claim some of the same itemized deductions that resident aliens can claim. **However, nonresident aliens can claim itemized deductions only if they have income effectively connected with their U.S. trade or business.***

Nonresident Aliens

You can deduct certain itemized deductions if you receive income effectively connected with your U.S. trade or business. These deductions include state and local income taxes, charitable contributions to U.S. organizations, casualty and theft losses, and miscellaneous deductions. Use Schedule A of Form 1040NR to claim itemized deductions.

If you are filing Form 1040NR-EZ, you can only claim a deduction for state or local income taxes. If you are claiming any other deduction, you must file Form 1040NR.

[IRS Publication 519, Year 2000, p. 23]

Why do they do the above? Well, those who know they have no effectively connected income and therefore have a zero tax liability *don't need* deductions because they don't owe anything! The only reason to pursue a deduction is because one has "gross income", and few Americans we have ever met living in the states even have "gross income".

Later on, in this same IRS Publication 519, we see that the IRS tries to create a false "[presumption](#)" in their favor by trying to convince people they are usually involved in a "trade or business". Notice that they never explicitly define what it means from the I.R.C, which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a [public office](#)". As a matter of fact, if they DID explain this definition in their publication, boy would they ever have a LOT of explaining to do on their phone support line, so they conveniently leave it out. They don't mention its real definition because that would render everything listed below as basically irrelevant and moot. The reader would simply throw Pub 519 in the trash at that point and conclude he is a "nontaxpayer", so they instead tip toe around the definition and give examples *without* relating them to the legal definition in the I.R.C. Below is the IRS Publication 519, Year 2000 definition of "[trade or business](#) in the [United States](#)" from pp. 15-16:

Trade or Business in the United States

Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. Whether you are engaged in a trade or business in the United States depends on the nature of your activities. The discussions that follow will help you determine whether you are engaged in a trade or business in the United States.

Personal Services

*If you perform personal services in the United States [federl territory] at any time during the tax year, you **usually** are considered engaged in a trade or business in the United States.*

TIP: Certain compensation paid to a nonresident alien by a foreign employer is not included in gross income. For more information, see Services Performed for Foreign Employer in chapter 3.

Other Trade or Business Activities

Other examples of being engaged in a trade or business in the United States follow.

Students and trainees.

You are considered engaged in a trade or business in the United States if you are temporarily present in the United States as a nonimmigrant under a "F," "J," "M," or "Q" visa. A nonresident alien temporarily present in the United States under a "J" visa includes a nonresident alien individual admitted to the United States as an exchange visitor under the Mutual Educational and Cultural Exchange Act of 1961. The taxable part of any scholarship or fellowship grant that is U.S. source income is treated as effectively connected with a trade or business in the United States.

Business operations.

*If you own and operate a business in the United States selling services, products, or merchandise, you are, **with certain exceptions [not mentioned]**, engaged in a trade or business in the United States.*

Partnerships. If you are a member of a partnership that at any time during the tax year is engaged in a trade or business in the United States, you are considered to be engaged in a trade or business in the United States.

Beneficiary of an estate or trust.

If you are the beneficiary of an estate or trust that is engaged in a trade or business in the United States, you are treated as being engaged in the same trade or business.

Trading in stocks, securities, and commodities.

If your only U.S. business activity is trading in stocks, securities, or commodities (including hedging transactions) through a U.S. resident [alien] broker or other agent, you are not engaged in a trade or business in the United States.

For transactions in stocks or securities, this applies to any nonresident alien, including a dealer or broker in stocks and securities.

For transactions in commodities, this applies to commodities that are usually traded on an organized commodity exchange and to transactions that are usually carried out at such an exchange.

U.S. office or other fixed place of business at any time during the tax year through which, or by the direction of which, you carry out your transactions in stocks, securities, or commodities.

Trading for a nonresident alien's own account.

You are not engaged in a trade or business in the United States if trading for your own account in stocks, securities, or commodities is your only U.S. business activity.

This applies even if the trading takes place while you are present in the United States or is done by your employee or your broker or other agent.

This does not apply to trading for your own account if you are a dealer in stocks, securities, or commodities. This does not necessarily mean, however, that as a dealer you are considered to be engaged in a trade or business in the United States. Determine that based on the facts and circumstances in each case or under the rules given above in Trading in stocks, securities, and commodities.

Effectively Connected Income

If you are engaged in a U.S. trade or business, all income, gain, or loss for the tax year that you get from sources within the United States (other than certain investment income) is treated as effectively connected income. This applies whether or not there is any connection between the income and the trade or business being carried on in the United States during the tax year.

Two tests, described under Investment Income, determine whether certain items of investment income (such as interest, dividends, and royalties) are treated as effectively connected with that business.

In limited circumstances, some kinds of foreign source income may be treated as effectively connected with a trade or business in the United States. For a discussion of these rules, see Foreign Income, later.

[IRS Publication 519, Year 2000, pp. 15-16]

The first thing you notice is the statement: "Whether you are engaged in a trade or business in the United States depends on the nature of your activities". That statement is a tacit admission that the income tax is in fact an indirect excise tax on activities. They also said:

*"If you perform personal services in the United States [federal territory] at any time during the tax year, you **usually** are considered engaged in a trade or business in the United States."*

Well, let's look at the definition of "personal services" used above to see what these weasels are up to:

[26 CFR Sec. 1.469-9 Rules for certain rental real estate activities.](#)

(b)(4) **PERSONAL SERVICES.**

Personal services means any work performed by an individual in connection with a trade or business.

However, personal services do not include any work performed by an individual in the individual's capacity as an investor as described in section 1.469-5T(f)(2)(ii).

Notice that they used the word "means" instead of "includes" in the above definition and DID NOT confine the definition by stating "for the purposes of this section" or "for the purposes of this chapter". Instead, they provided an unambiguous universal definition of "personal services" which applies throughout the ENTIRE [Internal Revenue Code](#) and they indicated effectively that you aren't performing "personal services" UNLESS you are engaged in a "[trade or business](#)". So what they are doing when they say "If you perform personal services in the [United States](#) [federal territory] at any time during the tax year, you **usually** are considered engaged in a trade or business in the [United States](#)." is effectively making a circular statement that confirms itself. This is called a "tautology", which is a word that is defined using itself. It's only purpose is self-serving deception. Can you see how insidious this deception and double-speak is? It's all designed to take attention away from the nature of the taxed activity so that people will think the tax is on the money instead of the activity, isn't it? If they admitted that the income tax was an indirect excise tax on activities, they would dig a DEEP hole for themselves that would start an avalanche of people leaving the tax rolls. That is why they never come out and said EXACTLY what a "trade or business" is or how their explanation relates to the definition of a "trade or business" found in [26 U.S.C. §7701](#)(a)(26), which describes it as a "public office". Since when do people holding "public office" have time to do any of the above things *in addition* to fulfilling their office? Furthermore, under federal law, it is a conflict of interest to maintain any private business activities outside the workplace that might jeopardize one's objectivity. But then later on p. 26 of the same publication, under "Dual Status Tax Year", they finally admit the truth:

Income Subject to Tax

Income from sources outside the United States [federal territory] that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. *The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.*

[IRS Publication 519, Year 2000, p. 26]

An excellent way to confirm the conclusions of this section is to read the publications of the Joint Committee on Taxation. We would like to quote from JCT document 85-199 entitled "Explanation of Proposed Income Tax Treaty Between The United States and the United Kingdom". You can get this publication at:

<http://famguardian.org/PublishedAuthors/Govt/JointComteeOnTax/85199-US-GB-TreatyExplan.pdf>

Now the excerpt, from pp. 4-5 is VERY revealing. We boldface and underline the important portions to bring attention to them. We have also

added bracketed material to amplify exactly what they mean based on discussion earlier in this chapter and based on the definitions of terms found in the Internal Revenue Code:

A. U.S. Tax Rules

The United States taxes U.S. citizens [people born anywhere in the country but domiciled on federal territory in the District of Columbia and territories but excluding those domiciled within constitutional states of the Union], residents [who are all "aliens"], and corporations [registered ONLY in the District of Columbia and EXCLUDING state-only corporations] on their worldwide income [connected with a "trade or business"], whether derived in the United States [federal territory] or abroad [outside the states of the Union]. **The United States generally taxes nonresident alien individuals and foreign corporations on all their income that is effectively connected with the conduct of a trade or business in the United States (sometimes referred to as "effectively connected income").** The United States also taxes nonresident alien individuals and foreign corporations on certain U.S.-source income that is not effectively connected with a U.S. trade or business.

Income of a nonresident alien individual or foreign corporation that is effectively connected with the conduct of a trade or business in the United States generally is subject to U.S. tax in the same manner and at the same rates as income of a U.S. person. Deductions are allowed to the extent that they are related to effectively connected income. A foreign corporation also is subject to a flat 30–percent branch profits tax on its "dividend equivalent amount," **which is a measure of the effectively connected earnings** and profits of the corporation that are removed in any year from the conduct of its U.S. trade or business. In addition, a foreign corporation is subject to a flat 30–percent branch-level excess interest tax on the excess of the amount of interest that is deducted by the foreign corporation in computing its effectively connected income over the amount of interest that is paid by its U.S. trade or business. U.S.-source fixed or determinable annual or periodical income of a nonresident alien individual or foreign corporation (including, for example, interest, dividends, rents, royalties, salaries, and annuities) that is not **effectively connected with the conduct of a U.S. trade or business** is subject to U.S. tax at a rate of 30 percent of the gross amount paid. Certain insurance premiums earned by a nonresident alien individual or foreign corporation are subject to U.S. tax at a rate of 1 or 4 percent of the premiums. These taxes generally are collected by means of withholding.

Specific statutory exemptions from the 30–percent withholding tax are provided. For example, certain original issue discount and certain interest on deposits with banks or savings institutions are exempt from the 30–percent withholding tax. An exemption also is provided for certain interest paid on portfolio debt obligations. In addition, income of a foreign government or international organization from investments in U.S. securities is exempt from U.S. tax.

U.S.-source capital gains of a nonresident alien individual or a foreign corporation that are not effectively connected with a U.S. trade or business generally are exempt from U.S. tax, with two exceptions: (1) gains realized by a nonresident alien individual who is present in the United States [federal territory] for at least 183 days during the taxable year, and (2) certain gains from the disposition of interests in U.S. real property.

Rules are provided for the determination of the source of income. For example, interest and dividends paid by a U.S. citizen or resident or by a U.S. corporation generally are considered U.S.-source income. Conversely, dividends and interest paid by a foreign corporation generally are treated as foreign-source income. Special rules apply to treat as foreign-source income (in whole or in part) interest paid by certain U.S. corporations with foreign businesses and to treat as U.S.-source income (in whole or in part) dividends paid by certain foreign corporations with U.S. businesses. Rents and royalties paid for the use of property in the United States are considered U.S.-source income.

They basically admitted everything we just got through saying throughout the preceding discussion, folks! They are very cleverly hiding the taxable activity by referring to it as a "trade or business", which is a "word of art", and not defining which "U.S." they are talking about or the fact that it only includes federal territory or the U.S. government. They also admitted the circumstances under which the 30% tax in [26 U.S.C. §871\(a\)](#) applies. Recall that this section identified a 30% tax on nonresident alien income from sources inside the statutory "United States***" (federal territory) which is not connected with a "trade or business". Well, they just explained that the tax is only paid by foreign corporations as an indirect tax upon income derived from a "trade or business". Therefore, ALL income that is taxable under the I.R.C. Subtitle A derives exclusively from a "trade or business" and a "public office" in one way or another.

The first sentence of the above also tries to deceive the reader by saying that "U.S. citizens", "residents", and "corporations" are taxed on their "worldwide income" WITHOUT mentioning the requirement for being engaged in a "trade or business". We know based on our earlier analysis, however, that under Subtitle A of the I.R.C., all natural persons who are "taxpayers" under the code, whether whether married, unmarried, heads of Household, etc. MUST be engaged in a "trade or business" in order to earn "taxable income". The taxable activity for international corporations is "foreign commerce" rather than the "trade or business" under other subtitles of the code, and the above tries to lump all of them together and thereby create an absolutely false presumption in the mind of the reader. Therefore, such a claim can ONLY apply to artificial entities engaged in foreign commerce under Subtitle D of the I.R.C. The only thing we didn't cover earlier was the difference in treatment between corporations and natural persons. In that scenario, under I.R.C. Subtitle D, these corporations are taxed on their worldwide income that derives from imports, which counts as "foreign commerce" under the constitution. These conclusions are supported by the Supreme Court, which said:

"The difficulties arising out of our dual form of government and the opportunities for differing opinions concerning the relative rights of state and national governments are many; but for a very long time this court has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their political

subdivisions. *The same basic reasoning which leads to that conclusion, we think, requires like limitation upon the power which springs from the bankruptcy clause. United States v. Butler, supra.*
[Ashton v. Cameron County Water Improvement District No. 1, [298 U.S. 513](#); 56 S.Ct. 892 (1936)]

*“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the **internal commerce** or **domestic trade** of the **States**. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature**. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. Congress cannot authorize a trade or business within a State in order to tax it.”
[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]*

9. Proving the government deception yourself

Another way to confirm the conclusions of this section is to look at older versions of the U.S. Code and Statutes at Large that show the definition of "[gross income](#)". Politicians of old were much more honest and direct than the weasels and thieves and traitors we have in office today, so their laws told the truth plainly. It wasn't until the socialists began to take over starting in 1913 and peaking with Franklin Roosevelt in the 1930's that the I.R.C. really started to show signs of willful deceit. Below are two very old definitions of "gross income" that show the truth plainly to prove our point. These versions did not use the "[trade or business](#)" trick so they had to state the truth plainly:

-  [26 U.S.C.A. 954 \(1928 code\)](#):
<http://famguardian.org/TaxFreedom/Authorities/FedLaw/26USCA954-1928-GrossIncome.pdf>
-  [26 U.S.C.A. 22 \(1935 code\)](#):
<http://famguardian.org/TaxFreedom/Authorities/FedLaw/26USCA22-1935-GrossIncome.pdf>

You can also look at our resource on "gross income", which includes the above, at:

<http://famguardian.org/TaxFreedom/CitesByTopic/GrossIncome.htm>

10. How nonresidents in states of the Union are deceived and coerced to enlist in the scam

What about those who are smart enough to avoid the "[trade or business](#)" scam by properly declaring their status as:

1. "nonresident aliens"
2. No income "effectively connected with a trade or business"
3. No sources of income inside the "United States" (federal territory)?

How does the IRS trap them? The IRS tricks them into volunteering into their jurisdiction using the IRS form W-4. The regulations say that those who submit an IRS form W-4:

1. MUST include all earnings listed on the W-2 as "[gross income](#)" on their tax return under [26 CFR §31.3402\(p\)-1](#).
2. Are consenting to be bound by a private legal "contract" between you and the government under [26 CFR §31.3402\(p\)-1](#). It doesn't say that on the form, but the regulations tell the truth plainly. The form itself simply identifies itself as an "Employee Withholding Allowance Certificate" and nowhere uses the word "agreement" or "contract". The reason it doesn't is because the government doesn't want you to know that you are signing a binding contract or that you have the choice NOT to sign or consent to it. This is obviously entrapment and does not constitute informed consent, but fraud.

Here is the regulation that proves this:

Title 26
CHAPTER I
SUBCHAPTER C
PART 31
Subpart E
[Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970. **An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. (b) Form and duration of agreement. (1)(i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.

Remember, however, that no law or court or government has the power to interfere with your right to contract. Here is what the U.S. Supreme Court says on this subject:

"Independent of these views, there are many considerations which lead to the conclusion that the power to impair contracts [either the Constitution or the Holy Bible], by direct action to that end, does not exist with the general [federal] government. In the first place, one of the objects of the Constitution, expressed in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture. As he observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the Confederation was engaged in framing the ordinance for the government of the Northwestern Territory, in which certain articles of compact were established between the people of the original States and the people of the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil and religious liberty, upon which the States, their laws and constitutions, were erected. **By that ordinance it was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have force in the said Territory, that shall, in any manner, interfere with or affect private contracts or engagements bona fide and without fraud previously formed.'** The same provision, adds the Chief Justice, found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient safeguard against injustice; and though the prohibition is not applied in terms to the government of the United States, he expressed the opinion, speaking for himself and the majority of the court at the time, **that it was clear 'that those who framed and those who adopted the Constitution intended that the spirit of this prohibition should pervade the entire body of legislation, and that the justice which the Constitution was ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of an opposite tendency.'** 8 Wall. 623. [99 U.S. 700, 765] Similar views are found expressed in the opinions of other judges of this court."

[\[Sinking Fund Cases, 99 U.S. 700 \(1878\)\]](#)

"A state can no more impair the obligation of a contract by her organic law [constitution] than by legislative enactment; for her constitution is a law within the meaning of the contract clause of the national constitution. Railroad Co. v. [115 U.S. 650, 673] McClure, 10 Wall. 511; Ohio Life Ins. & T. Co. v. Debolt, 16 How. 429; Sedg. St. & Const. Law, 637 And the obligation of her contracts is as fully protected by that instrument against impairment by legislation as are contracts between individuals exclusively. State v. Wilson, 7 Cranch, 164; Providence Bank v. Billings, 4 Pet. 514; Green v. Biddle, 8 Wheat. 1; Woodruff v. Trapnall, 10 How. 190; Wolff v. New Orleans, 103 U.S. 358."

[\[New Orleans Gas Company v. Louisiana Light Company, 115 U.S. 650 \(1885\)\]](#)

Neither states of the Union nor the federal government can therefore use their jurisdiction to protect you if you abuse your power to contract by signing a W-4 that gives away all your rights or sovereignty. Under Article 4, Section 3, Clause 2 of the Constitution, the federal government has jurisdiction over its own employees and property wherever they may be found, including in places where it otherwise has no legislative jurisdiction. Consequently, it has exclusive jurisdiction over all those who sign a W-4 wherever they may be found. The jurisdiction is "in rem" over all such "property".

In law, all rights are property. Anything that conveys rights is also property. Contracts convey rights and therefore are property. All franchises are contracts and therefore also are "property". A "trade or business"/"public office" is a franchise and therefore is also "property" within the meaning of Article 4, Section 3, Clause 2 of the United States Constitution. These facts are the ONLY reason why the United States District Courts, which were established pursuant to Article 4, Section 3, Clause 2 of the United States Constitution are even able to hear income tax cases: because they relate to federal franchises.

Sneaky, huh? That is why we repeatedly say DO NOT file form W-4's to stop withholding with your private employer. Use ONLY the modified form W-8BEN, or you are asking for BIG trouble and walking right into their trap, folks! Below is a link that will show you how to fill out the [W-8BEN](#) properly, if you choose to use it.

[About IRS Form W-8BEN, Form #04.201](#)

<http://sedm.org/Forms/FormIndex.htm>

Additional information beyond that above about how to handle tax withholding paperwork is also available in the following free book:

[Federal and State Tax Withholding Options for Private Employers, Form #09.001](#)

<http://sedm.org/Forms/FormIndex.htm>

A person domiciled in a state of the Union who has identified him or herself properly with their private employer as a "nonresident alien" (NRA) by filing the amended W-8BEN as we suggest, and who has had his earnings involuntarily withheld by his private employer is put into the unfortunate position of having to file a return to get the wrongfully withheld earnings back. Usually, they will incorrectly file the wrong form, the 1040, instead of the proper form 1040NR, and thereby make themselves effectively into a "resident alien". This gives the IRS jurisdiction over them because they are then treated as maintaining a domicile in the statutory but not constitutional "United States***" (federal territory). The IRS will then drag their feet refunding the wrongfully withhold earnings, forcing the NRA to take deductions and apply a graduated rate to reduce the withholding, which effectively forces them into perjuring themselves on a tax form just to get back the earnings that always were theirs to begin with.

11. False IRS presumptions that must be rebutted

How can we know if the IRS thinks we are involved in a "trade or business"? Here is how, within the context of Subtitle A of the I.R.C.:

1. Only people who are engaged in a "[trade or business](#)" are subject to the graduated rate of tax. See [26 U.S.C. §871\(b\)](#)
2. All income from within the federal territory, which is the "[United States](#)" under the I.R.C. section [7701\(a\)\(9\)](#) and [\(a\)\(10\)](#) and 4 U.S.C. §110(d), must be treated as "effectively connected with a [trade or business](#) in the [United States](#)", according to [26 U.S.C. §864\(c\)\(3\)](#). That's right: it is a "privilege" under [26 U.S.C. §864\(c\)\(3\)](#) to simply "live" and earn "[income](#)" on federal territory. Here is what it says:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)
[§864. Definitions and special rules](#)

(c) *Effectively connected income, etc.*

(3) *Other income from sources within United States*

All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

3. Only people who are engaged in a "[trade or business](#)" can claim deductions on their "[return](#)". Otherwise, they can't. See [26 U.S.C. §162](#) for proof.
4. Only people who are engaged in a "[trade or business](#)" can owe a tax and therefore be the target of a [Substitute For Return \(SFR\)](#), which is an assessment that in most cases is illegally executed by the IRS.
5. Only "[Citizens](#)" or "[residents](#)" who file a 1040 and put a nonzero amount for income can be connected to a "[trade or business](#)" within the [United States](#)".
6. Only "[Nonresident aliens](#)" who file a 1040NR form and put a nonzero amount for "[trade or business](#)" income can be connected to a "[trade or business](#)" within the [United States](#)".
7. Only people who complete, voluntarily sign, and submit a W-4 and thereby identify themselves as federal "[employees](#)" can be connected to a "[trade or business](#)". 26 CFR 31.3401(c)-1 identifies all federal "[employees](#)" as "[public officers](#)". All "public officers" are by definition engaged in a "trade or business".
8. Those who receive Social Security Benefits. [26 U.S.C. §861\(a\)\(8\)](#) says that Social Security benefits received must be included in "[gross income](#)" from "sources within the [United States](#)". Indirectly, they also must be saying that such earnings are to be treated as "effectively connected with a [trade or business](#)", because [26 U.S.C. §7701\(a\)\(31\)](#) says that if these earnings were not connected with a trade or business, then they cannot be reported as "[gross income](#)" and are part of a "foreign estate" not subject to the code. [26 U.S.C. §871\(a\)\(3\)](#), on the other hand, associates Social Security benefits received by "nonresident aliens" with OTHER than a "trade or business" and also makes them reportable and taxable as "[gross income](#)".

Those who avail themselves of any of the above government "privileges" are presumed to be "[taxpayers](#)" as far as the IRS is concerned. It's a "privilege" to have deductions and pay a usually lower graduated rate of tax on earnings that are otherwise "taxable". This doesn't mean they are "[taxpayers](#)" for ALL their earnings, but only for those in which the above activities are undertaken. It's a privilege to receive federal Socialist Security, Medicare, and FICA benefits, and only those who consent to be treated as federal "[employees](#)" can receive them. In effect, the government is exploiting people's ignorance and greed in the pursuit of exemptions or tax reductions or benefits they don't need in order to transform "nontaxpayers" into "taxpayers". Here is how one Congressman described this kind of very devious exploitation:

"Objections to its [the income tax] renewal are long, loud, and general throughout the country. Those who pay are the exception, those who do not pay are millions; the whole moral force of the law is a dead letter. The honest man makes a true return; the dishonest hides and covers all he can to avoid this obnoxious tax. It has no moral force. This tax is unequal, perjury-provoking and crime encouraging, because it is a war with the right of a person to keep private and regulate his business affairs and financial matters. Deception, fraud, and falsehood mark its progress everywhere in the process of collection. It creates curiosity, jealousy, and prejudice among the people. It makes the tax-gatherer a spy...The people demand that it shall not be renewed, but left to die a natural death and pass away into the future as pass away all the evils growing out of the Civil War."

[Congressional Globe, 41st Congress, 2d Session, 3993 (1870)]

Those "[taxpayers](#)" in receipt of taxable privileges or "nontaxpayers" who are too stupid to know that they don't need to become a "[taxpayer](#)" in order to receive a "privilege" they don't need should *definitely* pay for the "privilege" they are taking advantage of. Therefore, if you are a nonresident alien *not* engaged in a "[trade or business](#)" and any one of the above conditions applies to you, then the IRS is ASSUMING, usually wrongfully, that you are engaged in a "[trade or business](#)" or have income under [26 U.S.C. §871\(a\)](#) originating from the statutory but not

constitutional "United States**" (federal territory) that is not connected with a "[trade or business](#)". The great irony of this whole fraudulent federal "scheme" is that those who were otherwise "nontaxpayers" and never had any "[gross income](#)" to begin with, in effect were fooled by deceptive IRS publications and phone advice into:

1. Falsely believing that their income was "taxable" and that they were "[taxpayers](#)".
2. Falsely believing that because they were "taxpayers" with "[taxable income](#)", then they needed deductions to reduce their liability.
3. Volunteering to make themselves into "[taxpayers](#)" to procure federal "privileges" called "deductions" that they never needed to begin with, but which the IRS was too dishonest to remind them that they didn't need. Once they took these deductions, they became "[taxpayers](#)" even if they weren't before.

The Bible describes this GREAT deception and fraud as follows:

*For thus says the LORD:
"You have sold yourselves for nothing,
And you shall be redeemed without money."
[[Isaiah 52:3](#), Bible, NKJV]*

We call the above "government instituted slavery using privileges" or simply "privilege-induced slavery" earlier in section 4.3.12. Those with liberal arts degrees in business from prestigious but amoral or immoral universities might euphemistically refer to this devious brand of exploitation simply as "clever marketing", but in the end, it amounts to deceit in commerce, which the Bible says is the gravest of sins which God hates most of all sins:

*"As religion towards God is a branch of universal righteousness (he is not an honest man that is not devout), so **righteousness towards men is a branch of true religion, for he is not a godly man that is not honest**, nor can he expect that his devotion should be accepted; for,*

1. Nothing is more offensive to God than deceit in commerce. A false balance is here put for all manner of unjust and fraudulent practices [of our public dis-servants] in dealing with any person [within the public], which are all an abomination to the Lord, and render those abominable [hated] to him that allow themselves in the use of such accursed arts of thriving. It is an affront to justice, which God is the patron of, as well as a wrong to our neighbour, whom God is the protector of. Men [in the IRS and the Congress] make light of such frauds, and think there is no sin in that which there is money to be got by, and, while it passes undiscovered, they cannot blame themselves for it; a blot is no blot till it is hit, Hos. 12:7, 8. But they are not the less an abomination to God, who will be the avenger of those that are defrauded by their brethren.

2. Nothing is more pleasing to God than fair and honest dealing, nor more necessary to make us and our devotions acceptable to him: A just weight is his delight. He himself goes by a just weight, and holds the scale of judgment with an even hand, and therefore is pleased with those that are herein followers of him.

A [false] balance, [whether it be in the federal courtroom or at the IRS or in the marketplace,] cheats, under pretence of doing right most exactly, and therefore is the greater abomination to God."
[Matthew Henry's Commentary on the Whole Bible; Henry, M., 1996, c1991, under Prov. 11:1]

12. Legal requirements for holding a "public office"?

The subject of exactly what constitutes a "public office" within the meaning described in 26 U.S.C. §7701(a)(26) is not defined in any IRS publication we could find. The reason is quite clear: the "trade or business" scam is the Achilles heal of the IRS fraud and both the IRS and the Courts are loath to even talk about it because there is nothing they can defend themselves with other than unsubstantiated presumption created by the abuse of the word "includes" and certain key "words of art". In the face of such overwhelming evidence of their own illegal and criminal mis-enforcement of the tax codes, silence or omission in either admitting it or prosecuting it can only be characterized as FRAUD on a massive scale, in fact:

*"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."
[U.S. v. Prudden, 424 F.2d 1021 (5th Cir. 1970)]*

*"Silence can be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left unanswered would be intentionally misleading. . . We cannot condone this shocking behavior by the IRS. Our revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same from the government in its enforcement and collection activities."
[U.S. v. Tweel, 550 F.2d 297, 299 (5th Cir. 1977)]*

"Silence is a species of conduct, and constitutes an implied representation of the existence of the state of facts in question, and the estoppel is accordingly a species of estoppel by misrepresentation. When silence is of such a character and under such circumstances that it would become a fraud upon the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act upon, it will operate as an estoppel."

[*Carmine v. Bowen*, 64 A. 932 (1906)]

The "duty" the courts are talking about above is the fiduciary duty of all those serving in public offices in the government, and that fiduciary duty was created by the oath of office they took before they entered the office. Therefore, those who want to know how they could lawfully be classified as a "public office" will have to answer that question completely on their own, which is what we will attempt to do in this section.

We begin our search with a definition of "[public office](#)" from Black's Dictionary:

Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 1nd.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmler, 46 Ariz. 413, 52 P.2d 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio St. 33. 29 N.E. 593. [Black's Law Dictionary, Fourth Edition, p. 1235]

Black's Law Dictionary Sixth Edition further clarifies the meaning of a "[public office](#)" below:

"Essential characteristics of a '**public office**' are:

- (1) Authority conferred by law,
- (2) Fixed tenure of office, and
- (3) Power to exercise some of the sovereign functions **of government**.

Key element of such test is that "officer is carrying out a sovereign function. *Spring v. Constantino*, 168 Conn. 563, 362 A.2d 871, 875. Essential elements to establish public position as 'public office' are:

*Position must be created by Constitution, legislature, or through authority conferred by legislature.
Portion of sovereign power of government must be delegated to position,
Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
Duties must be performed independently without control of superior power other than law, and
Position must have some permanency."*

[*Black's Law Dictionary, Sixth Edition, p. 1230*]

American Jurisprudence Legal Encyclopedia further clarifies what a "public office" is as follows:

"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [1] **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts. [2] That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [3] and owes a fiduciary duty to the public. [4] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [5]** Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[6]"

[63C Am.Jur.2d, Public Officers and Employees, §247]

[1] *State ex rel. Nagle v Sullivan*, 98 Mont 425, 40 P2d 995, 99 ALR 321; *Jersey City v Hague*, 18 NJ 584, 115 A2d 8.

[2] *Georgia Dep't of Human Resources v Sistrunk*, 249 Ga 543, 291 SE2d 524. *A public official is held in public trust. Madlener v Finley (1st Dist)* 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697, app gr 117 Ill Dec 226, 520 NE2d 387 and revd on other grounds 128 Ill 2d 147, 131 Ill Dec 145, 538 NE2d 520.

[3] *Chicago Park Dist. v Kenroy, Inc.*, 78 Ill 2d 555, 37 Ill Dec 291, 402 NE2d 181, appeal after remand (1st Dist) 107 Ill App 3d 222, 63 Ill Dec 134, 437 NE2d 783.

[4] *United States v Holzer (CA7 Ill)* 816 F2d 304 and vacated, remanded on other grounds 484 US 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F2d 1343, cert den 486 US 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by *United States v Osser (CA3 Pa)* 864 F2d 1056) and (superseded by statute on other grounds as stated in *United States v Little (CA5 Miss)* 889 F2d 1367) and (among conflicting authorities on other grounds noted in *United States v Boylan (CA1 Mass)* 898 F2d 230, 29 Fed Rules Evid Serv 1223).

[5] *Chicago ex rel. Cohen v Keane*, 64 Ill 2d 559, 2 Ill Dec 285, 357 NE2d 452, later proceeding (1st Dist) 105 Ill App 3d 298, 61 Ill Dec 172, 434 NE2d 325.

[6] *Indiana State Ethics Comm'n v Nelson (Ind App)* 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

Ordinary or common-law employees of the government also do not qualify as "public officers":

Treatise on the Law of Public Offices and Officers
Book 1: Of the Office and the Officer: How Officer Chosen and Qualified
Chapter I: Definitions and Divisions

§2 *How Office Differs from Employment.*-A public office differs in material particulars from a public employment, for, as was said by Chief Justice MARSHALL, "although an office is an employment, it does not follow that every employment is an office. A man may certainly be employed under a contract, express or implied, to perform a service without becoming an officer." [1]

"We apprehend that the term 'office,'" said the judges of the supreme court of Maine, "implies a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office; and the exercise of such power within legal limits constitutes the correct discharge of the duties of such office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments and sometimes to another; still it is a legal power which may be rightfully exercised, and in its effects it will bind the rights of others and be subject to revision and correction only according to the standing laws of the state. An employment merely has none of these distinguishing features. A public agent acts only on behalf of his principal, the public, whose sanction is generally considered as necessary to give the acts performed the authority and power of a public act or law. **And if the act be such as not to require subsequent sanction, still it is only a species of service performed under the public authority and for the public good, but not in the exercise of any standing laws which are considered as roles of action and guardians of rights.**" [2]

"The officer is distinguished from the employee," says Judge COOLEY, "in the greater importance, dignity and independence of his position; in being required to take an official oath, and perhaps to give an official bond; in the liability to be called to account as a public offender for misfeasance or non-feasance in office, and usually, though not necessarily, in the tenure of his position. In particular cases, other distinctions will appear which are not general." [3]

[A *Treatise on the Law of Public Offices and Officers*, Floyd Russell Mechem, 1890, pp. 3-4, §2;
SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

[1] *United States v. Maurice*, 2 Brock. (U.S.C.C.) 96.

[2] *Opinion of Judges*, 8 Greenl. (Me.) 481.

[3] *Throop v. Langdon*, 40 Mich. 678, 682; "An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power or for a fixed term with a successor elected or appointed. An employment is an agency for a temporary purpose which ceases when that purpose is accomplished. " *Cons. Ill.*, 1870, Art. 5, §24.

Based on the foregoing, one cannot be a "public officer" if:

1. There is not a statute or constitutional authority that specifically creates the office. All "public offices" can only be created through legislative authority.
2. Their duties are not specifically and exactly enumerated in some Act of Congress.
3. They have a boss or immediate supervisor. All duties must be performed INDEPENDENTLY.
4. They have anyone but the law and the courts to immediately supervise their activities.
5. They are serving as a "public officer" in a location NOT specifically authorized by the law. The law must create the office and specify exactly where it is to be exercised. [4 U.S.C. §72](#) says ALL public offices of the federal and national government MUST be exercised ONLY in the District of Columbia and not elsewhere, except as expressly provided by law.
6. Their position does not carry with it some kind of fiduciary duty to the "public" which in turn is documented in and enforced by enacted law itself.
7. The beneficiary of their fiduciary duty is other than the "public". Public service is a public trust, and the beneficiary of the trust is the public at large and not any one specific individual or group of individuals. See [5 CFR §2635.101](#)((b) and Executive Order 12731.

All public officers must take an oath. The oath, in fact, is what creates the fiduciary duty that attaches to the office. This is confirmed by the definition of "public official" in Black's Law Dictionary:

"Public Official. A person who, **upon being issued a commission, taking required oath**, enters upon, for a fixed tenure, a position called an office where he or she exercises in his or her own right some of the attributes of sovereign he or she serves for benefit of public. *Macy v. Heverin*, 44 Md.App. 358, 408 A.2d 1067, 1069. **The holder of a public office though not all persons in public employment are public officials, because public official's position requires the exercise of some portion of the sovereign power, whether great or small.** **Town of Arlington v. Bds. of Conciliation and Arbitration, Mass., 352 N.E.2d 914.**"

[Black's Law Dictionary, Sixth Edition, p. 1230]

The oath for United States federal and state officials was prescribed in the very first enactment of Congress on March 4, 1789 as follows:

Statutes at Large, March 4, 1789
1 Stat. 23-24

SEC. 1. Be it enacted by the Senate and [Home of] Representatives of the United States of America in Congress assembled, That the oath or affirmation required by the sixth article of the Constitution of the United States, shall be administered in the form following, to wit : " I, A, B. do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." The said oath or affirmation shall be administered within three days after the passing of this act, by any one member of the Senate, to the President of the Senate, and by him to all the members and to the secretary; and by the Speaker of the House of Representatives, to all the members who have not taken a similar oath, by virtue of a particular resolution of the said House, and to the clerk: and in case of the absence of any member from the service of either House, at the time prescribed for taking the said oath or affirmation, the same shall be administered to such member, when he shall appear to take his seat.

SEC. 2. And he it further enacted, That at the first session of Congress after every general election of Representatives, the oath or affirmation aforesaid, shall be administered by any one member of the House of Representatives to **the Speaker**; and by him **to all the members present**, and to **the clerk**, previous to entering on any other business; and to the members who shall afterwards appear, previous to taking their seats. The President of the Senate for the time being, shall also administer the said oath or affirmation to **each Senator who shall hereafter be elected**, previous to his taking his seat: and in any future case of a **President of the Senate**, who shall not have taken the said oath or affirmation, the same shall be administered to him by any one of the members of the Senate.

SEC. 3. And be it further enacted. That **the members of the several State legislatures**, at the next sessions of the said legislatures, respectively, and **all executive and judicial officers of the several States, who have been heretofore chosen or appointed**, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State, in which such office shall be holden, to administer oaths. And **the members of the several State legislatures, and all executive and judicial officers of the several States**, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons, who by the law of the State shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken, shall cause a record or certificate thereof to be made, in the same manner, as, by the law of the State, he or they shall be directed to record or certify the oath of office.

SEC. 4. And he it further enacted, That all officers appointed, or hereafter to be appointed under the authority of the United States, shall, before they act in their respective offices, take the same oath or affirmation, which shall be administered by the person or persons who shall be authorized by law to administer to such officers their respective oaths of office; and such officers shall incur the same penalties in case of failure, as shall be imposed by law in case of failure in taking their respective oaths of office.

SEC. 5. And be it further enacted, That the **secretary of the Senate**, and **the clerk of the House of Representatives** for the time being, shall, at the time of taking the oath or affirmation aforesaid, each take an oath or affirmation in the words following, to wit : "I, A. B. secretary of the Senate, or clerk of the House of Representatives (as the case may be) of the United States of America, do solemnly swear or affirm, that I will truly and faithfully discharge the duties of my said office, to the best of my knowledge and abilities."

Based on the above, the following persons within the government are "public officers":

1. Federal Officers:
 - 1.1. The President of the United States.
 - 1.2. Members of the House of Representatives.
 - 1.3. Members of the Senate.
 - 1.4. All appointed by the President of the United States.
 - 1.5. The secretary of the Senate.
 - 1.6. The clerk of the House of Representatives.
 - 1.7. All district, circuit, and supreme court justices.
2. State Officers:
 - 2.1. The governor of the state.
 - 2.2. Members of the House of Representatives.
 - 2.3. Members of the Senate.
 - 2.4. All district, circuit, and supreme court justices of the state.

At the federal level, all those engaged in the above "public offices" are statutorily identified in [26 U.S.C. §2105](#). Consistent with this section, what most people would regard as ordinary common law employees are not included in the definition. Note the phrase "an officer AND an individual":

[TITLE 5 > PART III > Subpart A > CHAPTER 21 > § 2105](#)
[§ 2105. Employee](#)

(a) For the purpose of this title, "employee", except as otherwise provided by this section or when specifically modified,

means **an officer and an individual** who is—

(1) appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a Member or Members of Congress, or the Congress;
- (C) a member of a uniformed service;
- (D) an individual who is an employee under this section;
- (E) the head of a Government controlled corporation; or
- (F) an adjutant general designated by the Secretary concerned under section 709 (c) of title 32;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

Within the military, only commissioned officers are "public officers". Enlisted or NCOs (Non-Commissioned Officers) are not.

Those holding Federal or State public office, county or municipal office, under the Legislative, Executive or Judicial branch, including Court Officials, Judges, Prosecutors, Law Enforcement Department employees, Officers of the Court, and etc., before entering into these public offices, are required by the U.S. Constitution and statutory law to comply with 5 U.S.C. §3331, "Oath of office." State Officials are also required to meet this same obligation, according to State Constitutions and State statutory law.

All oaths of office come under 22 CFR, Foreign Relations, Sections §§92.12 - 92.30, and all who hold public office come under 8 U.S.C. §1481 "Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions."

Under Title 22 U.S.C., Foreign Relations and Intercourse, Section §611, a Public Official is considered a foreign agent. In order to hold public office, the candidate must file a true and complete registration statement with the State Attorney General as a foreign principle.

The Oath of Office requires the public officials in his/her foreign state capacity to uphold the constitutional form of government or face consequences, according to 10 U.S.C. §333, "Interference with State and Federal law"

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

Willful refusal action while serving in official capacity violates 18 U.S.C. §1918, "Disloyalty and asserting the right to strike against the Government"

Whoever violates the provision of 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

shall be fined under this title or imprisoned not more than one year and a day, or both.

AND violates 18 U.S.C. §1346:

[TITLE 18 > PART I > CHAPTER 63](#)

§ 1346. Definition of "scheme or artifice to defraud"

" For the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

The "public offices" described in [26 U.S.C. §7701\(a\)\(26\)](#) within the definition of "[trade or business](#)" are ONLY public offices located in the District of Columbia and not elsewhere. To wit:

[TITLE 4 > CHAPTER 3 > § 72](#)

[§ 72. Public offices: at seat of Government](#)

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

[SOURCE: http://www4.law.cornell.edu/uscode/html/uscode04/usc_sec_04_00000072----000-.html]

The only provision of any act of Congress that we have been able to find which authorizes "public offices" outside the District of Columbia as expressly required by law above, is [48 U.S.C. §1612](#), which authorizes enforcement of the Internal Revenue Code within the U.S. Virgin Islands. To wit:

[TITLE 48](#) > [CHAPTER 12](#) > [SUBCHAPTER V](#) > § 1612
[§ 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](#) 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 [E](#) of title [26](#) 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 the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section [1617](#) of this title.

There is NO PROVISION OF LAW which would similarly extend public offices or jurisdiction to enforce any provision of the Internal Revenue Code to any place within the exclusive jurisdiction of any state of the Union, because Congress enjoys NO LEGISLATIVE JURISDICTION THERE.

*"It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, [247 U.S. 251, 275](#), 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.**"*

[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]

*"The difficulties arising out of our dual form of government and the opportunities for differing opinions concerning the relative rights of state and national governments are many; **but for a very long time this court has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their political subdivisions.** The same basic reasoning which leads to that conclusion, we think, requires like limitation upon the power which springs from the bankruptcy clause. United States v. Butler, supra."*

[Ashton v. Cameron County Water Improvement District No. 1, [298 U.S. 513](#); 56 S.Ct. 892 (1936)]

By law then, no "public office" may therefore be exercised OUTSIDE the District of Columbia except as "expressly provided by law", including privileged or licensed activities such as a "trade or business". This was also confirmed by the U.S. Supreme Court in the License Tax Cases, when they said:

*"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting licenses, licenses to pilots, licenses to trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the **internal commerce** or **domestic trade** of the States. Over this commerce and trade Congress has **no power of regulation nor any direct control.** This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature.** The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize a trade or business within a State in order to tax it.**"*

[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

Since [I.R.C. Subtitle A](#) is a tax on "public offices", which is called a "trade or business", then the tax can only apply to those domiciled within the statutory but not constitutional "United States*" (federal territory), wherever they are physically located to include states of the Union, but only if they are serving under oath in their official capacity as "public officers".

"Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth Amendment makes one a citizen of the state wherein he resides, the fact of residence creates

universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course, the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious illustration being a tax on realty laid by the state in which the realty is located."

[Miller Brothers Co. v. Maryland, [347 U.S. 340](#) (1954)]

Another important point needs to be emphasized, which is that those working for the federal government, while on official duty, are representing a federal corporation called the "[United States](#)", which is domiciled in the District of Columbia.

[TITLE 28](#) > [PART VI](#) > [CHAPTER 176](#) > [SUBCHAPTER A](#) > Sec. 3002.

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

PART VI - PARTICULAR PROCEEDINGS

CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE

SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS

[Sec. 3002. Definitions](#)

(15) "**United States**" means -

(A) **a Federal corporation**;

(B) *an agency, department, commission, board, or other entity of the United States; or*

(C) *an instrumentality of the United States.*

Federal Rule of Civil Procedure 17(b) says that the capacity to sue and be sued civilly is based on one's domicile:

[IV. PARTIES](#) > Rule 17.

[Rule 17. Parties Plaintiff and Defendant: Capacity](#)

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;

(2) for a corporation [the "United States", in this case, or its officers on official duty representing the corporation], by the law under which it was organized [laws of the District of Columbia]; and

(3) for all other parties, by the law of the state where the court is located, except that:

(A) *a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and*

(B) [28 U.S.C. §§ 754](#) and [959](#)(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.

[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

Government employees, including "public officers", while on official duty representing the federal corporation called the "United States", maintain the character of the entity they represent and therefore have a legal domicile of the statutory but not constitutional "United States**" (federal territory) within the context of their official duties. The Internal Revenue Code also reflects this fact in [26 U.S.C. §7701](#)(a)(39) and [26 U.S.C. §7408](#)(d):

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 79](#) > § 7701
[§ 7701. Definitions](#)

(a) *When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof*

—

(39) *Persons residing outside United States*

*If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident **shall be treated as residing in the District of Columbia for purposes of any provision of this title** relating to—*

(A) *jurisdiction of courts, or*

(B) *enforcement of summons*

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 76](#) > [Subchapter A](#) > § 7408

[§ 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions](#)

(d) *Citizens and residents outside the United States*

*If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident **shall be treated for purposes of this section as residing in the District of Columbia.***

Kidnapping and transporting the legal identity of a person domiciled outside the District of Columbia in a foreign state, which includes states of the Union, is illegal pursuant to [18 U.S.C. §1201](#). Therefore, the only people who can be legally and involuntarily "kidnapped" by the courts based on the above two provisions of statutory law are those who individually consent through private contract to act as "public officials" in the execution of their official duties. The fiduciary duty of these "public officials" is further defined in the I.R.C. as follows, and it is only by an oath of "[public office](#)" that this fiduciary duty can lawfully be created:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 68](#) > [Subchapter B](#) > [PART I](#) > § 6671
[§ 6671. Rules for application of assessable penalties](#)

(b) Person defined

The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, **who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.**

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 75](#) > [Subchapter D](#) > § 7343
[§ 7343. Definition of term "person"](#)

The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

We remind our readers that there is no liability statute within Subtitle A of the I.R.C. that would create the duty documented above, and therefore the ONLY way it can be created is by the oath of office of the "public officers" who are the subject of the tax in question. This was thoroughly described in the following article:

There's No Statute Making Anyone Liable to Pay IRC Subtitle A Income Taxes
<http://famguardian.org/Subjects/Taxes/Articles/NoStatuteLiable.htm>

The existence of fiduciary duty of "public officers" is therefore the ONLY lawful method by which anyone can be prosecuted for an "omission", which is a thing they didn't do that the law required them to do. It is otherwise illegal and unlawful to prosecute anyone under either common law or statutory law for a FAILURE to do something, such as a FAILURE TO FILE a tax return pursuant to [26 U.S.C. §7203](#). Below is an example of where the government gets its authority to prosecute "taxpayers" for failure to file a tax return, in fact:

"I: DUTY TO ACCOUNT FOR PUBLIC FUNDS

§ 909. In general.-

It is the duty of the public officer, like any other agent or trustee, although not declared by express statute, to faithfully account for and pay over to the proper authorities all moneys which may come into his hands upon the public account, and the performance of this duty may be enforced by proper actions against the officer himself, or against those who have become sureties for the faithful discharge of his duties.

[A Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890;
SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

In addition to the above, every attorney admitted to practice law in any state or federal court is described as an "officer of the court", and therefore ALSO is a "public officer":

Attorney at law. An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts. An officer in a court of justice, who is employed by a party in a cause to manage it for him. In re Bergeron, 220 Mass. 472, 107 N.E. 1007, 1008, Ann.Cas.1917A, 549.

In English law. A **public officer belonging to the superior courts of common law at Westminster.** who conducted legal proceedings on behalf of others. called his clients, by whom he was retained; he answered to the solicitor in the courts of chancery, and the proctor of the admiralty, ecclesiastical, probate, and divorce courts. An attorney was almost invariably also a solicitor. It is now provided by the judicature act. 1873, 8 87. that solicitors. Attorneys, or proctors of, or by law empowered to practice in, any court the jurisdiction of which is by that act transferred to the high court of justice or the court of appeal, shall be called "solicitors of the supreme court." Wharton.

[Black's Law Dictionary, Fourth Edition, p. 164]

ATTORNEY AND CLIENT, Corpus Juris Secundum Legal Encyclopedia Volume 7, Section 4

His [the attorney's] first duty is to the courts and the public, not to the client, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.
[7 C.J.S. Attorney and Client, §4]

Executive Order 12731 and 5 CFR §2635.101(a) furthermore both indicate that "public service is a public trust":

Executive Order 12731

"Part 1 -- PRINCIPLES OF ETHICAL CONDUCT

"Section 101. Principles of Ethical Conduct. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

"(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XVI--OFFICE OF GOVERNMENT ETHICS
PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH--Table of Contents
Subpart A--General Provisions
Sec. 2635.101 Basic obligation of public service.

(a) Public service is a public trust.

Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

The above provisions of law imply that everyone who works for the government is a "trustee" of "We the People", who are the sovereigns they serve in the public. In law, EVERY "trustee" is a "fiduciary" of the Beneficiary of the trust within which he serves:

TRUSTEE. The person appointed, or required by law, to execute a trust; one in whom an estate, interest, or power is vested, **under an express or implied agreement [e.g. PRIVATE LAW or CONTRACT] to administer or exercise it for the benefit or to the use of another called the cestui que trust.** Pioneer Mining Co. v. Ty berg, C.C.A.Alaska, 215 F. 501, 506, L.R.A.1915B, 442; Kaehn v. St. Paul Co-op. Ass'n, 156 Minn. 113, 194 N.W. 112; Catlett v. Hawthorne, 157 Va. 372, 161 S.E. 47, 48. Person who holds title to res and administers it for others' benefit. Reinecke v. Smith, Ill., 53 S.Ct. 570, 289 US. 172, 77 L.Ed. 1109. **In a strict sense, a "trustee" is one' who holds the legal title to property for the benefit of another, while, in a broad sense, the term is sometimes applied to anyone standing in a fiduciary or confidential relation to another, such as agent, attorney, bailee, etc. State ex rel. Lee v. Sartorius, 344 Mo. 912, 130 S.W.2d 547, 549, 550.** "Trustee" is also used In a wide and perhaps inaccurate sense, to denote that a person has the duty of carrying out a transaction, in which he and another person are interested, in such manner as will be most for the benefit of the latter, and not in such a way that he himself might be tempted, for the sake of his personal advantage, to neglect the interests of the other. In this sense, directors of companies are said to be "trustees for the shareholders." Sweet.
[Black's Law Dictionary, Fourth Edition, p. 1684]

The fact that public service is a "public trust" was also confirmed by the U.S. Supreme Court, when it said:

"Whatever these Constitutions and laws validly determine to be property, it is the duty of the Federal Government, through the domain of jurisdiction merely Federal, to recognize to be property.

*"And this principle follows from the structure of the respective Governments, State and Federal, and their reciprocal relations. **They are different agents and trustees of the people of the several States, appointed with different powers and with distinct purposes, but whose acts, within the scope of their respective jurisdictions, are mutually obligatory.**"*
[Dred Scott v. Sandford, 60 U.S. 393 (1856)]

An example of someone who is NOT a "public officer" is a federal worker on duty and who is not required to take an oath. These people may think of themselves as employees in an ordinary and not statutory sense and even be called employees by their supervisor or employer, but in fact NOT be the statutory "employee" defined in 5 U.S.C. §2105(a). Remember that 5 U.S.C. §2105(a) defines a STATUTORY "employee" as **"an officer and an individual"** and you don't become an "officer" in a statutory sense unless and until you take a Constitutional oath. Almost invariably, such workers also have some kind of immediate supervisor who manages and oversees and evaluates his activities pursuant to the position description drafted for the position he fills. He may be a "trustee" and he may have a "fiduciary duty" to the public as a "public servant", but he isn't an "officer" or "public officer" unless and until he takes an oath of office prescribed by law. A federal worker, however, can become a "public office" by virtue of any one or more of the following purposes that we are aware of so far:

1. Be elected to political office.
2. Being appointed to political office by the President or the governor of a state of the Union.

A "public office" is not limited to a human being. It can also extend to an entire entity such as a corporation. An example of an entity that is a "public office" in its entirety is a federally chartered bank, such as the original Bank of the United States described in Osborn v. United States, in

which the U.S. Supreme Court identified the original and first Bank of the United States, a federally chartered bank corporation created by Congress, as a "public office":

All the powers of the government must be carried into operation by individual agency, either through the medium of public officers, or contracts made with individuals. Can any public office be created, or does one exist, the performance of which may, with propriety, be assigned to this association [or trust], when incorporated? If such office exist, or can be created, then the company may be incorporated, that they may be appointed to execute such office. Is there any portion of the public business performed by individuals upon contracts, that this association could be employed to perform, with greater advantage and more safety to the public, than an individual contractor? If there be an employment of this nature, then may this company be incorporated to undertake it.

There is an employment of this nature. Nothing can be more essential to the fiscal concerns of the nation, than an agent of undoubted integrity and established credit, with whom the public moneys can, at all times, be safely deposited. Nothing can be of more importance to a government, than that there should be some capitalist in the country, who possesses the means of making advances of money to the government upon any exigency, and who is under a legal obligation to make such advances. For these purposes the association would be an agent peculiarly suitable and appropriate. [. . .]

The mere creation of a corporation, does not confer political power or political character. So this Court decided in *Dartmouth College v. Woodward*, already referred to. If I may be allowed to paraphrase the language of the Chief Justice, I would say, a bank incorporated, is no more a State instrument, than a natural person performing the same business would be. If, then, a natural person, engaged in the trade of banking, should contract with the government to receive the public money upon deposit, to transmit it from place to place, without charging for commission or difference of exchange, and to perform, when called upon, the duties of commissioner of loans, would not thereby become a public officer, how is it that this artificial being, created by law for the purpose of being employed by the government for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? because the government has given it power to take and hold property in a particular form, and to employ that property for particular purposes, and in the disposition of it to use a particular name? because the government has sold it a privilege [22 U.S. 738, 774] for a large sum of money, and has bargained with it to do certain things; is it, therefore, a part of the very government with which the contract is made?

If the Bank be constituted a public office, by the connexion between it and the government, it cannot be the mere legal franchise in which the office is vested; the individual stockholders must be the officers. Their character is not merged in the charter. This is the strong point of the *Mayor and Commonalty v. Wood*, upon which this Court ground their decision in the *Bank v. Deveaux*, and from which they say, that cause could not be distinguished. Thus, aliens may become public officers, and public duties are confided to those who owe no allegiance to the government, and who are even beyond its territorial limits.

With the privileges and perquisites of office, all individuals holding offices, ought to be subject to the disabilities of office. But if the Bank be a public office, and the individual stockholders public officers, this principle does not have a fair and just operation. The disabilities of office do not attach to the stockholders; for we find them every where holding public offices, even in the national Legislature, from which, if they be public officers, they are excluded by the constitution in express terms.

If the Bank be a public institution of such character as to be justly assimilated to the mint and the post office, then its charter may be amended, altered, or even abolished, at the discretion of the National Legislature. All public offices are created [22 U.S. 738, 775] purely for public purposes, and may, at any time, be modified in such manner as the public interest may require. Public corporations partake of the same character. So it is distinctly adjudged in *Dartmouth College v. Woodward*. In this point, each Judge who delivered an opinion concurred. By one of the Judges it is said, that 'public corporations are generally esteemed such as exist for public political purposes only, such as towns, cities, parishes and counties; and in many respects they are so, although they involve some private interests: but, strictly speaking, public corporations are such only as are founded by the government for public purposes, where the whole interest belongs also to the government. If, therefore, the foundation be private, though under the charter of the government, the corporation is private, however extensive the uses may be to which it is devoted, either by the bounty of the founder, or the nature and objects of the institution. For instance, a bank, created by the government for its own uses, whose stock is exclusively owned by the government, is, in the strictest sense, a public corporation. So, a hospital created and endowed by the government for general charity. But a bank, whose stock is owned by private persons, is a private corporation, although it is erected by the government, and its objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain sense, be called public, but the corporations are private; as much [22 U.S. 738, 776] so, indeed, as if the franchises were vested in a single person.[. . .]

In what sense is it an instrument of the government? and in what character is it employed as such? Do the government employ the faculty, the legal franchise, or do they employ the individuals upon whom it is conferred? and what is the nature of that employment? does it resemble the post office, or the mint, or the custom house, or the process of the federal Courts?

The post office is established by the general government. It is a public institution. The persons who perform its duties are public officers. No individual has, or can acquire, any property in it. For all the services performed, a compensation is paid out of the national treasury; and all the money received upon account of its operations, is public property. Surely there is no similitude between this institution, and an association who trade upon their own capital, for their own profit, and who have paid the government a million and a half of dollars for a legal character and name, in which to conduct their trade.

Again: the business conducted through the agency of the post office, is not in its nature a private business. It is of a public character, and the [22 U.S. 738, 786] charge of it is expressly conferred upon Congress by the constitution. The business is created by law, and is annihilated when the law is repealed. But the trade of banking is strictly a private concern. It exists and can be carried on without the aid of the national Legislature. Nay, it is only under very special circumstances, that the national Legislature can so far interfere with it, as to facilitate its operations.

*The post office executes the various duties assigned to it, by means of subordinate agents. The mails are opened and closed by persons invested with the character of public officers. But they are transported by individuals employed for that purpose, in their individual character, which employment is created by and founded in contract. To such contractors no official character is attached. These contractors supply horses, carriages, and whatever else is necessary for the transportation of the mails, upon their own account. The whole is engaged in the public service. The contractor, his horses, his carriage, his driver, are all in public employ. But this does not change their character. All that was private property before the contract was made, and before they were engaged in public employ, remain private property still. The horses and the carriages are liable to be taxed as other property, for every purpose for which property of the same character is taxed in the place where they are employed. The reason is plain: the contractor is employing his own means to promote his own private profit, and the tax collected is from the individual, though assessed upon the [22 U.S. 738, 787] means he uses to perform the public service. To tax the transportation of the mails, as such, would be taxing the operations of the government, which could not be allowed. But to tax the means by which this transportation is effected, so far as those means are private property, is allowable; because it abstracts nothing from the government; and because, the fact that an individual employs his private means in the service of the government, attaches to them no **immunity whatever.**"*
[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]

The record of the House of Representatives after the enactment of the first income tax during the Civil War in 1862, confirmed that the income tax was upon a "[public office](#)" and that even IRS agents, who are not "public officers" and who are not required to take an oath, are therefore exempt from the requirements of the revenue acts in place at the time. Read the amazing truth for yourself:

House of Representatives, Ex. Doc. 99, 1867

<http://famguardian.org/Subjects/Taxes/Evidence/PublicOrPrivate-Tax-Return.pdf>

Below is an excerpt from that report proving our point. The Secretary of the Treasury at the time is comparing the federal tax liabilities of postal clerks to those of internal revenue clerks. At that time, the IRS was called the Bureau of Internal Revenue. The office of Commissioner of Internal Revenue was established in 1862 as an emergency measure to fund the Civil War, which ended shortly thereafter, but the illegal enforcement of the revenue laws continued and expanded into the states over succeeding years:

House of Representatives, Ex. Doc. 99, 1867, pp. 1-2

39th Congress, 2d Session

Salary Tax Upon Clerks to Postmasters

Letter from the Secretary of the Treasury in answer to A resolution of the House of the 12th of February, relative to salary tax upon clerks to postmasters, with the regulations of the department

Postmasters' clerks are appointed by postmasters, and take the oaths of office prescribed in the 2d section of the act of July 2, 1862, and in the 2d section of the act of March 3, 1863.

*Their salaries are not fixed in amount bylaw, but from time to time the Post master General fixes the amount', allotted to each postmaster for clerk hire, under the authority conferred upon him by tile ninth section of the act of June 5, 1836, and then the postmaster, as an agent for and in behalf of the United States, determines the salary to be paid to each of his clerks. These salaries are paid by the postmasters, acting as disbursing agents, .from United States moneys advanced to them for this purpose, either directly from the Post Office Department in pursuance of appropriations made by law, or from the accruing revenues of their offices, under the instructions of the Postmaster General. The receipt of such clerks constitute vouchers in the accounts of the postmasters acting as disbursing agents in the settlements made with them by the Sixth Auditor. In the foregoing transactions the postmaster acts not as a principal, but as an agent of the United States, and the clerks are not in his private employment, but in the public employment of the United States. Such being the facts, **these clerks are subjected to and required to account for and pay the salary tax**, imposed by the one hundred and twenty-third section of the internal revenue act of June 30, 1864, as amended by the ninth section of the internal revenue act of July 13, 1866, upon payments for services to persons in the civil employment or service of the United States.*

*Copies of the regulations under which such salary taxes are withheld and paid into the treasury to the credit of internal revenue collection account are herewith transmitted, marked A, b, and C. **Clerks to assessors of internal revenue [IRS agents] are appointed by the assessors. Neither law nor regulations require them to take an oath of office, because, as the law at present stands, they are not in the public service of the United States.***

through the agency of the assessor, but are in the private service of the assessor, as a principal, who employs them.

The salaries of such clerks are neither fixed in amount by law, nor are they regulated by any officer of the Treasury Department over the clerk hire of assessors is to prescribe a necessary and reasonable amount which shall not be exceeded in reimbursing the assessors for this item of their expenses.

No money is advanced by the United States for the payment of such salaries, nor do the assessors perform the duties of disbursing agents of the United States in paying their clerks. The entire amount allowed is paid directly to the assessor, and he is not accountable to the United States for its payment to his clerks, for the reason that he has paid them in advance, out of his own funds, and this is a reimbursement to him of such amount as the department decides to be reasonable. **No salary tax is therefore collected, or required by the Treasury Department to be accounted for, or paid, on account of payments to the assessors' clerks, as the United States pays no such clerks nor has them in its employ or service, and they do not come within the provisions of existing laws imposing such a tax.**

Perhaps no better illustration of the difference between the status of postmasters' clerks and that of assessors' clerks can be given than the following: A postmaster became a defaulter, without paying his clerks; his successor received from the Postmaster General a new remittance for paying them; and if at any time, the clerks in a post office do not receive their salaries, by reason of the death, resignation or removal of a postmaster, the new appointee is authorized by the regulations of the Post Office Department to pay them out of the proceeds of the office; and should there be no funds in his hands belonging to the department, a draft is issued to place money in his hands for that purpose.

If an assessor had not paid his clerks, they would have no legal claim upon the treasury for their salaries. A discrimination is made between postmasters' clerks and assessor's clerks to the extent and for the reasons hereinbefore set forth.

I have the honor to be, very respectfully, your obedient servant.

H. McCulloch, Secretary of the Treasury

[House of Representatives, Ex. Doc. 99, 1867, pp. 1-2]

Notice based on the above that revenue officers don't take an oath, so they don't have to pay the tax, while postal clerks take an oath, so they do. Therefore, the oath that creates the "public office" is the method by which the government manufactures "public officers", "taxpayers", and "sponsors" for its wasteful use or abuse of public monies. If you would like a whole BOOK full of reasons why the only "taxpayers" under the I.R.C. Subtitle A are "public officials", please see the following exhaustive analysis:

[Why Your Government is Either a Thief or you are a "Public Official" for Income Tax Purposes, Form #05.008](http://sedm.org/Forms/FormIndex.htm)
<http://sedm.org/Forms/FormIndex.htm>

13. De Facto Public Officers

Based on the previous section, we are now thoroughly familiar with all the legal requirements for:

1. How public offices are lawfully created.
2. The only places where they can lawfully be exercised.
3. The duties that attach to the public office.
4. The type of agency exercised by the public officer.
5. The relationship between the public office and the public officer.

What we didn't cover in the previous section is what are all the legal consequences when someone performs the duties of a public office without satisfying all the legal requirements for lawfully occupying the office? In law, such a person is called a "de facto officer" and books have been written about the subject of the "de facto officer doctrine". Below is what the U.S. Supreme Court held on the subject of "de facto officers":

*"None of the cases cited militates against the doctrine that, **for the existence of a de facto officer, there must be an office de jure**, although there may be loose expressions in some of the opinions, not called for by the facts, seemingly against this view. **Where no office legally exists, the pretended officer is merely a usurper, to whose acts no validity can be attached**; and such, in our judgment, was the position of the commissioners of Shelby county, who undertook to act as the county court, which could be constitutionally held only by justices of the peace. Their right to discharge the duties of justices of the peace was never recognized by the justices, but from the outset was resisted by legal proceedings, which terminated in an adjudication that they were usurpers, clothed with no authority or official function. "*

[Norton v. Shelby Co State of Tennessee, 118 U.S. 425, 6 S.Ct. 1121, 30 L.Ed. 178 (1886)]

As we have already established, all statutory "taxpayers" are public officers in the U.S. and not state government. This is exhaustively proven with evidence in:

[Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes, Form #05.008](http://sedm.org/Forms/FormIndex.htm)

<http://sedm.org/Forms/FormIndex.htm>

A person who fulfills the DUTIES of a statutory "taxpayer" under 26 U.S.C. §7701(a)(14) without lawfully occupying a public office in the U.S. government BEFORE becoming a "taxpayer" would be a good example of a de facto public officer. Those who exercise the duties of a public officer without meeting all the requirements, from a legal perspective, are in fact committing the crime of impersonating a public officer.

[TITLE 18 > PART I > CHAPTER 43 > § 912](#)
[§ 912. Officer or employee of the United States](#)

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

What are some examples where a person would be impersonating a public officer unlawfully? Here are a few:

1. You elect or appoint yourself into public office by filling out a tax form without occupying said office BEFORE being a statutory "taxpayer".
2. You serve in the office in a geographic place NOT expressly authorized by law. For instance, 4 U.S.C. §72 requires that ALL federal public offices MUST be exercised ONLY in the District of Columbia and NOT ELSEWHERE, unless expressly authorized by law.
3. A third party unilaterally ELECTS you into a public office by submitting an information return linking you to such a BOGUS office under the alleged but not actual authority of 26 U.S.C. §6041(a).
4. You occupy the public office without either expressly consenting to it IN WRITING or without even knowing you occupy such an office.

If a so-called "GOVERNMENT" is established in which:

1. The only kind of "citizens" or "residents" allowed are STATUTORY citizens and residents. CONSTITUTIONAL citizens and residents are either not recognized or allowed. . . .OR
2. All "citizens" and "residents" are compelled under duress to accept the duties of a public office or ANY kind of duties imposed by the government upon them. Remember, the Thirteenth Amendment forbids "involuntary servitude", so if the government imposes any kind of duty or requires you to surrender private property of any kind by law, then they can only do so through the medium of a public office. . . .OR
3. Everyone is compelled to obey government statutory law. Remember, nearly all laws passed by government can and do regulate ONLY the government and not private people. See:

[Why Statutory Civil Law is Law for Government and Not Private Persons](#), Form #05.037
<http://sedm.org/Forms/FormIndex.htm>

. . .then you end up not only with a LOT of public officers, but a de facto GOVERNMENT as well. That government is thoroughly described in:

[De Facto Government Scam](#), Form #05.043
<http://sedm.org/Forms/FormIndex.htm>

Even at the state level, it is a crime in every state of the Union to pretend to be a public officer of the state government who does not satisfy ALL of the legal requirements for occupying the public office. Below is an itemized list by jurisdiction of constitutional and statutory requirements that are violated by those who either impersonate a state public officer OR who serve simultaneously serve in BOTH a FEDERAL public office and a STATE public office AT THE SAME TIME. That's right: When you either impersonate a state public officer OR serve in BOTH a FEDERAL public office and STATE public office AT THE SAME TIME, then you are committing a crime and have a financial conflict of interest and conflict of allegiance that can and should disqualify you from exercising or accepting the duties of the office:

Table 4: Statutory remedies for those compelled to act as public officers and straw man

Jurisdiction	Legal Cite Type	Title	Legal Cite
Alabama	Constitution	Dual Office Prohibition	Article III, Section 25; Article IV, Sect. 22; Art. V, Sect. 10; Article VI, Section 12
Alabama	Statute	Crime: Impersonating Public Officer	C.O.A. § 13A-10-10
Alabama	Statute	Crime: Identity Theft	C.O.A. Title 13A, Article 10
Alaska	Constitution	Dual Office Prohibition	Const. Sections 2.5, 3.6, 4.8
Alaska	Statute	Crime: Identity Theft	A.S. § 11.46.160
Alaska	Statute	Crime: Impersonating Public Officer	A.S. § 11.56.830
Arizona	Constitution	Dual Office Prohibition	Const. Article 4, Part 2, Section 4; Const. Article 6, Section 28
Arizona	Statute	Crime: Identity Theft	A.R.S. § 13-2006
Arizona	Statute	Crime: Impersonating Public Officer	A.R.S. § 13-2406
Arkansas	Constitution	Dual Office Prohibition	Const. Article 3, Section

			10;Const. Article 5, Section 7;Article 5, Section 10; Art. 80, Sect. 14
Arkansas	Statute	Crime: Impersonating Public Officer	A.S.C. § 5-37-208
California	Constitution	Dual Office Prohibition	Const. Article 5, Section 2 (governor);Const. Article 5, Section 14;Article 7, Section 7
California	Statute	Crime: Identity Theft	Penal Code § 484.1
Colorado	Constitution	Dual Office Prohibition	Const. Article V, Section 8 (internal)
Connecticut	Constitution	Dual Office Prohibition	Const. Article 1, Section 11 (internal)
Connecticut	Statute	Crime: Identity Theft	C.G.S.A. § 53a-129a to 53a-129c
Delaware	Constitution	Dual Office Prohibition	Const. Article 1, Section 19
Delaware	Statute	Crime: Identity Theft	D.C. Title 11, Section 854
Delaware	Statute	Crime: Impersonating Public Officer	D.C. Title 11, Section 907(3)
District of Columbia	Constitution	Dual Office Prohibition	Const. of D.C., Article IV, Sect. 4(B) (judges); Art. III, Sect. 4(D) (governor)
District of Columbia	Statute	Crime: Impersonating Public Officer	D.C. Code § 22-1404
Florida	Constitution	Dual Office Prohibition	Const. Article II, Section 5
Florida	Statute	Crime: Impersonating Public Officer	F.S. Title XLVI, Section 817.02
Georgia	Constitution	Dual Office Prohibition	Const. Article I, Section II, Para. III;Const. Article III, Section II, Para. IV(b)
Georgia	Statute	Crime: Impersonating Public Officer	O.C.G.A. §16-10-23
Hawaii	Constitution	Dual Office Prohibition	Const. Article III, Section 8 (internal)
Hawaii	Statute	Crime: Impersonating Public Officer	H.R.S. § 710-1016
Idaho	Constitution	Dual Office Prohibition	Const. Article V, Section 7 (judges)
Idaho	Statute	Crime: Impersonating Public Officer	I.S. § 18-3001
Illinois	Constitution	Dual Office Prohibition	Const. Article IV, Section 2(e) (legislative)
Illinois	Statute	Crime: Impersonating Public Officer	720 ILCS 5/17 2
Indiana	Constitution	Dual Office Prohibition	Const. Article 2, Section 9;Const. Article 4, Section 30 (legislative)
Indiana	Statute	Crime: Impersonating Public Officer	I.C. § 25-30-1-18
Iowa	Constitution	Dual Office Prohibition	Const. Article III, Section 22 (legislature); Const. Article IV, Section 14 (governor)
Iowa	Statute	Crime: Impersonating Public Officer	I.C. Title XVI, Section 718.2
Kansas	Constitution	Dual Office Prohibition	Const. Article 3, Section 13 (judges)
Kansas	Statute	Crime: Impersonating Public Officer	K.R.S. § 21-3825
Kentucky	Statute	Crime: Impersonating Public Officer	K.R.S. § 434.570
Kentucky	Statute	Crime: Identity Theft	K.R.S. § 514.60;K.R.S. § 532.034
Kentucky	Statute	Dual Office Prohibition	K.R.S. § 61.080
Louisiana	Constitution	Dual Office Prohibition	Const. Article II, Section 2 (internal); Const. Article IV, Section 2 (executive)

Louisiana	Statute	Crime: Impersonating Public Officer	R.S. § 14:112
Maine	Constitution	Dual Office Prohibition	Const. Article III, Section 2 (internal)
Maine	Statute	Crime: Impersonating Public Officer	17-A M.R.S. Section 457
Maryland	Constitution	Dual Office Prohibition	Const. Declaration of Rights, Article 33 (judges); Const. Declaration of Rights, Article 35 (officers)
Maryland	Statute	Crime: Impersonating Public Officer	Statutes §8-301
Massachusetts	Constitution	Dual Office Prohibition	Const. Chapter VI, Article 2
Massachusetts	Statute	Crime: Impersonating Public Officer	G.L.M. Chapter 268, Section 33
Michigan	Constitution	Dual Office Prohibition	Const. Article IV, Section 8
Michigan	Statute	Crime: Impersonating Public Officer	Mich. Penal Code, Chapter XXXV, Section 750.217c
Minnesota	Constitution	Dual Office Prohibition	Const. Article IV, Section 5
Minnesota	Statute	Crime: Impersonating Public Officer	M.S. § 609.475
Mississippi	Statute	Crime: Impersonating Public Officer	M.C. § 97-7-43
Missouri	Constitution	Dual Office Prohibition	Const. Article VII, Section 9
Missouri	Statute	Crime: Impersonating Public Officer	M.R.S. § 570.223
Missouri	Statute	Crime: Identity Theft	M.R.S. § 570.223
Montana	Constitution	Dual Office Prohibition	Const. Article III, Section 1; Const. Article V, Section 9 (office); Article VII, Section 9 (judges)
Montana	Statute	Crime: Impersonating Public Officer	M.C.A. § 45-7-209
Nebraska	Constitution	Dual Office Prohibition	Const. Article III-9
Nebraska	Statute	Crime: Impersonating Public Officer	N.R.S. § 28-636
Nebraska	Statute	Crime: Identity Theft	N.R.S. § 28-639
Nevada	Constitution	Dual Office Prohibition	Const. Article 4, Section 9 (officers)
Nevada	Statute	Crime: Impersonating Public Officer	N.R.S. § 197.120
New Hampshire	Constitution	Dual Office Prohibition	Const. Art. 94-95
New Hampshire	Statute	Crime: Identity Theft	N.H.R.S. § 359-I:2
New Jersey	Constitution	Dual Office Prohibition	Const. Article III, Section 1; Const. Article IV, Section V, Sections 3-4; Const. Article V, Section I, Section 3
New Jersey	Statute	Crime: Impersonating Public Officer	N.J.S.A. § 2C:28-8
New Mexico	Constitution	Dual Office Prohibition	Const. Article IV, Section 3 (senators); Const. Article VI, Section 19 (judge)
New Mexico	Statute	Crime: Identity Theft	N.M.S.A. § 30-16-21.1
New York	Constitution	Dual Office Prohibition	Const. Article III, Section 7 (legislature); Const. Article VI, Section 20(b)(1)
New York	Statute	Crime: Identity Theft	General Business Law 380-S; Penal Law 190.78
New York	Statute	Crime: Impersonating Public Officer	Penal Law § 190.23
North Carolina	Constitution	Dual Office Prohibition	Const. Article VI, Section 9
North Carolina	Statute	Crime: Impersonating Public Officer	N.C.G.S. § 14-277
North Dakota	Statute	Crime: Impersonating Public Officer	N.D.C.C. § 12.1-13-04
Ohio	Constitution	Dual Office Prohibition	Const. Article 2, Section 04 (legislature); Const. Article

			4, Section 06, Para. (B)
Ohio	Statute	Crime: Impersonating Public Officer	
Oklahoma	Constitution	Dual Office Prohibition	Const. Article II, Section 12; Const. Article V, Section 18 (legislature)
Oklahoma	Statute	Crime: Impersonating Public Officer	O.S. Title 21, Section 1533
Oklahoma	Statute	Crime: Identity Theft	O.S. Title 21, Section 1533.1
Oregon	Constitution	Dual Office Prohibition	Const. Article II, Section 10
Oregon	Statute	Crime: Impersonating Public Officer	O.R.S. § 162.365
Oregon	Statute	Crime: Identity Theft	O.R.S. § 165.803
Pennsylvania	Constitution	Dual Office Prohibition	Const. Article V, Section 17 (judges)
Pennsylvania	Statute	Crime: Identity Theft	18 Pa.C.A. § 4120
Rhode Island	Constitution	Dual Office Prohibition	Const. Article III, Section 6
Rhode Island	Statute	Crime: Impersonating Public Officer	G.L.R.I. § 11-14-1
South Carolina	Constitution	Dual Office Prohibition	Const. Article 1, Section 8(internal); Const. Article VI, Section 3 (officers)
South Carolina	Statute	Crime: Impersonating Public Officer	S.C.C.O.L. § 16-13-290
South Dakota	Constitution	Dual Office Prohibition	Const. Article 3, Section 3
South Dakota	Statute	Crime: Impersonating Public Officer	S.D.C.L. § 22-40-16
South Dakota	Statute	Crime: Identity Theft	S.D.C.L. § 22-40-8
Tennessee	Constitution	Dual Office Prohibition	Const. Article II, Section 2 (internal); Const. Article II, Section 26 (officers)
Tennessee	Statute	Crime: Impersonating Public Officer	T.C. § 39-16-301
Texas	Constitution	Dual Office Prohibition	Const. Article 2, Section 1 (internal); Const. Article 3, Section 18 (legislature); Const. Article 4, Section 6 (executive)
Texas	Statute	Crime: Impersonating Public Officer	Penal Code, Section 37.11
Texas	Statute	Crime: Identity Theft	T.S. § 32.51
United States	Statute	Crime: Impersonating Public Officer	18 U.S.C. § 912
Utah	Constitution	Dual Office Prohibition	Const. Article V, Section 1 (internal); Const. Article VIII, Section 10 (judges)
Utah	Statute	Crime: Impersonating Public Officer	U.C. § 76-8-512
Vermont	Constitution	Dual Office Prohibition	Const. Chapter II, Section 54
Vermont	Statute	Crime: Impersonating Public Officer	13 V.S.A. § 3002
Virginia	Constitution	Dual Office Prohibition	Const. Article IV, Section 4 (legislature); Const. Article V, Section 4 (governor)
Virginia	Statute	Crime: Identity Theft	C.O.V. § 18.2-186.3
Washington	Constitution	Dual Office Prohibition	Const. Article II, Section 14 (legislature); Const. Article IV, Section 15 (judges)
Washington	Statute	Crime: Impersonating Public Officer	R.C.W. 18.71.190
West Virginia	Constitution	Dual Office Prohibition	Const. Article 6, Section 16 (senators); Const. Article 7, Section 4 (executive); Const. Article 8, Section 7 (judges)
West Virginia	Statute	Crime: Impersonating	W.V.C. § 61-5-27a(e)

		Public Officer	
Wisconsin	Constitution	Dual Office Prohibition	Const. Article IV, Section 13
Wisconsin	Statute	Crime: Identity Theft	W.S. § 943.201
Wyoming	Constitution	Dual Office Prohibition	Const. Section 97-3-008 (legislature); Const. Section 97-5-027 (judges)
Wyoming	Statute	Crime: Identity Theft	W.S. § 6-3-901
Wyoming	Statute	Crime: Impersonating Public Officer	W.S. § 6-5-307

If you would like to research further the laws and remedies available in the specific jurisdiction you are in, we highly recommend the following free tool:

SEDM Jurisdictions Database, Litigation Tool #09.008

<http://sedm.org/Litigation/LitIndex.htm>

The above tool is also available at the top row under the menu on our Litigation Tools page at the link below:

<http://sedm.org/Litigation/LitIndex.htm>

14 How do ordinary government workers not holding "public office" become "taxpayers"

A question we are asked frequently is whether ordinary government workers not otherwise engaged in a "public office" are "taxpayers" and how they become "taxpayers". The answer is they aren't unless they sign a contract to become a "public officer" called IRS Form W-4. The remainder of this section will explain why this is.

The previous section discussed the differences between a "public office" and "public employment" and clearly proved that they are NOT equivalent. Consequently, ordinary government workers or civil service employees are NOT "public officers" nor are they therefore engaged in the "trade or business" franchise and contract by default.

Earnings not connected to the "trade or business" and public office franchise are described in [26 U.S.C. §871\(a\)](#) in the case of "nonresident aliens". The following article proves that nonresident aliens not engaged in the "trade or business" franchise cannot earn "wages" unless they consent to do so by signing a contract called IRS Form W-4:

Nonresident Alien Position, Form #05.020, Section 12

<http://sedm.org/Forms/FormIndex.htm>

I.R.C. Subtitle A is a franchise tax on public offices, which the I.R.C. calls a "trade or business". "Public office" and "public employment" are NOT equivalent in law. Even for government workers, they don't earn "wages" as legally defined in [26 U.S.C. §3401](#) unless they are ALREADY public officers in the government BEFORE they sign the W-4. This is because:

1. If a government worker not engaged in a public office refuses to sign the W-4 and is not otherwise engaged in a "public office", then they can't lawfully become the subject of W-2 information returns and if they are filed with nonzero "wages", they are FALSE in violation of [26 U.S.C. §7207](#) and [26 U.S.C. §7434](#).
2. It is "wages" which appear on IRS Form W-2 in block 1. This form connects the term "wages" to the "trade or business" franchise pursuant to [26 U.S.C. §6041\(a\)](#).
3. [26 U.S.C. §871\(a\)\(1\)](#) mentions "wages" as being taxable when not connected to the "trade or business" franchise and one can only earn "wages" if they consent under the W-4 contract/agreement.

TITLE 26--INTERNAL REVENUE

CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

PART 31_EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE--Table of Contents

Subpart E_Collection of Income Tax at Source

[26 CFR §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a). For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are

amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)-1 and 31.3401(d)-1 for the definitions of "employee" and "employer".

4. It is "wages" and NOT "all earnings", "income", or even "gross income" that appear in the IRS Individual Master File (IMF) as being taxable.
5. The income tax is upon "wages" but not even "public officers" earn "wages".

[TITLE 26](#) > [Subtitle C](#) > [CHAPTER 24](#) > § 3401
[§ 3401. Definitions](#)

(a) Wages

For purposes of this chapter, the term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid—

6. It is "wages" which are the subject of I.R.C. Subtitle C withholding and constitute I.R.C. Subtitle A "gross income" because "wages" is the code word for earnings of those who elect to become "public officers" and thereby donate their private property earnings to a "public office", a "public use", and a "public purpose" and thereby subject them to taxation by signing the federal W-4 "public officer" job application and contract.
7. It is "wages" that 26 CFR §31.3401(p)-1 says become "gross income" and therefore "trade or business" income ONLY AFTER one signs the W-4.

TITLE 26--INTERNAL REVENUE
CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
PART 31 EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE--Table of Contents
Subpart E Collection of Income Tax at Source
[§31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)-3, made after December 31, 1970. ***An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.*** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

8. It is for claiming that "wages" are not taxable that many tax protesters are properly sanctioned. See:

[Flawed Tax Arguments to Avoid](http://sedm.org/Forms/FormIndex.htm), Form #08.004, Section 6.2
<http://sedm.org/Forms/FormIndex.htm>

The W-4 form is being used to connect private earnings to "wages" as legally defined and the "trade or business"/"public office" franchise by all of the following mechanisms:

1. As a federal "election" form where you can elect yourself into public office within the government. You are the only voter in this "election". Now do you know why the IRS calls it an "election" whenever you consent to something in the I.R.C. They aren't lying!
2. As a permission form authorizing the filing of information returns connecting otherwise private persons to a public office and a "trade or business" pursuant to [26 U.S.C. §6041\(a\)](#). If the W-2 is filed against a person who did NOT make such an election, then election fraud is occurring and the employer is committing the crime of impersonating a public officer in violation of [18 U.S.C. §912](#). Any withholdings against a person who did not submit the W-4 is a bribe to procure a public office in criminal violation of [18 U.S.C. §211](#).
<http://www.law.cornell.edu/uscode/html/uscode...11---000-.html>
3. To CREATE public offices in the U.S. government unlawfully rather than tax those already in existence.
4. As a way to create a franchise that turns private labor into public property by donating it to a public use and a public office.

*"Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness; and to 'secure,' not grant or create, these rights, governments are instituted. ***That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.***"*
[Budd v. People of State of New York, 143 U.S. 517 (1892)]

5. As a way to make private workers into a Kelly Girls and contractors for the government engaged in a "public office".
6. As a way to make you party to the franchise agreement codified in I.R.C. Subtitles A and C.
7. The SSN or TIN on the W-4 form is being used as a de facto "license" to act as a "public officer" in the U.S. government called a "taxpayer". The IRS Form 1042-s Instructions say the SSN is only required for those engaged in a "trade or business", which means a

public office. The tax is on the office, not on the private person. The office is the "res" that is the subject of the tax and the use of the number is prima facie evidence of the existence of the "res". All tax proceedings are "in rem" against the office, which is the only real "citizen", "resident", and "taxpayer". The human being filling the office is not the "taxpayer", but he is surety for the "taxpayer". They don't call the SSN or TIN a "license number" even though it is for all intents and purposes, because they don't want to admit that they have no authority to license ANYTHING within a state of the Union:

*"But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize [e.g. LICENSE] a trade or business within a State in order to tax it.**"*
[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

Please show us a case where the License Tax cases was overruled? It's still in force. The feds can't license ANYTHING within a state, including "public offices" and the "trade or business" franchise that is being ILLEGALLY enforced within states of the Union at this time. To admit otherwise is to sanction a destruction of the separation of powers between the states and the federal government. There is NO PLACE within the I.R.C. that authorizes the CREATION of public offices using any tax form, and yet that is what the IRS is unlawfully using W-2, W-4, and 1040 forms for. [4 U.S.C. §72](#) says there MUST be a statute that authorizes the creation and exercise of such offices within a state in order for such public offices to be valid. Essentially what is happening is that the forms constitute an election to make you into a "resident agent" for an office that exists in the District of Columbia.

The existence of [26 U.S.C. §871\(a\)](#) is a deception, because [26 U.S.C. §7701\(a\)\(31\)](#) says the property of those not engaged in the "trade or business" franchise is a foreign estate not subject to the I.R.C. One's earnings are part of that "foreign estate".

[26 U.S.C. §3401\(a\)\(6\)](#) excludes earnings of "nonresident aliens" from "wages", if regulations exist. Government workers who aren't public officers therefore have the same protections as ordinary private industry workers who are nonresident aliens not engaged in the "trade or business" franchise. The only way a nonresident alien not otherwise engaged in the "trade or business" franchise can become subject is to sign the W-4 contract to:

1. Become engaged in the franchise and be eligible for "benefits" under the franchise agreement.
2. Waive sovereign immunity pursuant to [28 U.S.C. §1605](#).
3. Make an election to become a "resident alien".

Where within [26 U.S.C. §3401](#) is the term "wages" treated any differently for government workers who AREN'T "public officers"? It AIN'T, friend.

Remember: Information returns are the only way the IRS could find out about the earnings of a government employee, and these returns can ONLY be filed against those engaged in the "trade or business" franchise or who elect to be using the W-4 agreement/contract. 26 CFR §31.3401(a)-3(a), 26 CFR §31.3402(p)-1. How would the IRS find out about 871(a) income that is NOT connected with the "trade or business"? There is no information return that is NOT connected to a "trade or business" and it is a CRIME for a person not ALREADY engaged in a public office in the government BEFORE they signed the W-4 to impersonate a public officer or engage in the activities of a public office. [18 U.S.C. §912](#).

The income tax is upon the COINCIDENCE of DOMICILE within the jurisdiction AND being engaged in the "trade or business" franchise. The VOLUNTARY use of an identifying number connects you to BOTH of these prerequisites:

1. SSNs and TINs can only be issued to "U.S. persons". [26 U.S.C. §6109\(g\)](#), 26 CFR §301.6109-1(g), and 20 CFR §422.103(d).
2. The number is only MANDATORY for persons engaged in franchises. See IRS form 1042-s instructions AND section 10 of the following:

[About SSNs/TINs on Government Forms and Correspondence](#), Form #05.012
<http://sedm.org/Forms/FormIndex.htm>

You can STILL be a government worker as a nonresident alien not engaged in a "trade or business", not have a domicile on federal territory, and therefore STILL be a "foreign person" who is free and sovereign. The *domicile* and the protection it pays for is where the government's authority comes from to collect the tax in the first place. It is a CIVIL liability and you aren't subject to their CIVIL law without a domicile on federal territory, unless you contract with them to procure an identity or "res", and thereby become a "res-ident". When you contract with them, you create a "public office" in the government and become surety for the office you created using your signature. F.R.Civ.P. 17(b), [26 U.S.C. §7408\(d\)](#), and [26 U.S.C. §7701\(a\)\(39\)](#) then changes the choice of law to the District of Columbia for all functions of the "public office" because now you are acting in a representative capacity on behalf of the federal corporation as such public officer.

On the subject of contracting with the government, the Bible forbids Christians from nominating a King or Protector above them, or from contracting with the pagan government:

"Do not walk in the [civil] statutes of your fathers [the heathens, by selecting a domicile or "residence" in their jurisdiction], nor observe their judgments, nor defile yourselves with their idols. I am the LORD your God: Walk in My statutes, keep My judgments, and do them; hallow My Sabbaths, and they will be a sign between Me and you, that

*you may know that I am the LORD your God.”
[Ezekial 20:10-20, Bible, NKJV]*

*“You shall make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan government] gods [laws or judges]. They shall not dwell in your land [and you shall not dwell in theirs by becoming a “resident” in the process of contracting with them], lest they make you sin against Me [God]. For if you serve their gods [under contract or agreement or franchise], it will surely be a snare to you.”
[Exodus 23:32-33, Bible, NKJV]*

*“Therefore, my brethren, you also have become dead to the law [man's law] through the body of Christ [by shifting your legal domicile to the God's Kingdom], that you may be married to another—to Him who was raised from the dead, that we should bear fruit [as agents, fiduciaries, and trustees] to God. For when we were in the flesh, the sinful passions which were aroused by the law were at work in our members to bear fruit to death. But now we have been delivered from the law, having died to what we were held by, so that we should serve in the newness of the Spirit [and newness of the law, God's law] and not in the oldness of the letter.”
[Rom. 7:4-6, Bible, NKJV]*

*“The wicked shall be turned into hell, And all the nations [and peoples] that forget [or disobey] God [or His commandments].”
[Psalm 9:17, Bible, NKJV]*

*“Do you not know that friendship with the world is enmity with God? Whoever therefore wants to be a friend [“citizen”, “resident”, “taxpayer”, “inhabitant”, or “subject” under a king or political ruler] of the world [or any man-made kingdom other than God's Kingdom] makes himself an enemy of God. “
[James 4:4, Bible, NKJV]*

*“Above all, you must live as citizens of heaven [INSTEAD of citizens of earth. You can only be a citizen of ONE place at a time because you can only have a domicile in one place at a time], conducting yourselves in a manner worthy of the Good News about Christ. Then, whether I come and see you again or only hear about you, I will know that you are standing together with one spirit and one purpose, fighting together for the faith, which is the Good News.”
[Philippians 1:27, Bible, NLT]*

The government can't lawfully force you to choose a domicile in their jurisdiction or to nominate a protector or become a “resident” if you are a “national” who was born in this country. They can force an alien born in another country to become a privileged “resident”, but the can't force a “national” who is born here to become a “resident”, because they can't lawfully compel a “citizen” under the constitution to suffer any of the disabilities of alienage without engaging in involuntary servitude and violation of constitutional rights. This is also confirmed by the definition of “residence” at 26 CFR §1.871-2, which only includes aliens and not “nonresident aliens”. If they did force you to choose a domicile or residence and thereby become a “taxpayer”, it would be a violation of the First Amendment prohibition against compelled association and the Thirteenth Amendment prohibition against involuntary servitude. It has always been lawful to refuse protection and refuse to be a domiciliary called a statutory “U.S. citizen”, “U.S. person”, or statutory “U.S. resident”, and to refuse to contract with them or accept any “benefits” that might give rise to a “quasi-contractual” obligation to pay for “social insurance”. See:

1. [Why Domicile and Becoming a “Taxpayer” Require Your Consent](http://sedm.org/Forms/FormIndex.htm), Form #05.002
<http://sedm.org/Forms/FormIndex.htm>
2. [The Government “Benefits” Scam](http://sedm.org/Forms/FormIndex.htm), Form #05.040
<http://sedm.org/Forms/FormIndex.htm>

As Frank Kowalik points out in his wonderful book, *IRS Humbug*, the income tax is a public officer kickback program disguised to “look” like a legitimate income tax. It's smoke and mirrors. To make it look like an income tax, they had to throw the “domicile” stuff into it, but the public officer status is still the foundation. That is why [26 U.S.C. §7701\(a\)\(31\)](#) says everything in the code is “foreign” that is not connected to the public office (“trade or business”) franchise. To be “foreign” means it is outside the jurisdiction of the franchise agreement because not consensually connected to it.

15. Methods of Connecting You to the Franchise

15.1 Reductions in Liability: Graduated Rate of Tax, Deductions, and Earned Income Credits

All attempts to reduce one's assumed tax liability require the person filing the tax return to be engaged in the “trade or business” excise taxable franchise. This includes:

1. Applying the graduated rate of tax found in 26 U.S.C. §1. Without the graduated rate of tax, the flat 30% tax applies to “nonresident alien individuals” found in 26 U.S.C. §871(a). The Section 1 rate usually starts lower than 30%.
2. Applying for earned income credits in 26 U.S.C. §32.
3. Taking “trade or business” deductions found in 26 U.S.C. §162:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B](#)
[Part VI-Itemized deductions for Individuals and Corporations](#)
[Sec. 162. - Trade or business expenses](#)

(a) In general

*There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any **trade or business**, including –*

(1) a reasonable allowance for salaries or other compensation for [personal services](#) actually rendered;

Why must you be engaged in a "trade or business" in order to reduce your liability as a "taxpayer"? Because this is a commercial "benefit" and only those who work for the government can receive any commercial benefit from the government. Otherwise, the government is abusing its taxing power to transfer wealth among private individuals:

To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.

Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.

*Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa. St., 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**' See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra."*

[Loan Association v. Topeka, 20 Wall. 655 (1874)]

IRS Publication 519 confirms the above by saying the following:

Nonresident Aliens

You can claim deductions to figure your effectively connected taxable income. You generally cannot claim deductions related to income that is not connected with your U.S. business activities. Except for personal exemptions, and certain itemized deductions, discussed later, you can claim deductions only to the extent they are connected with your effectively connected income.

[IRS Publication 519, Year 2005, p. 24]

15.2 Information Returns

Information returns include but are not limited to IRS Forms W-2, 1042-S, 1098, 1099, and 8300. Receipt of "trade or business" earnings is the basis for nearly all Information Returns processed by the IRS, which are reports documenting financial payments made to government entities or officers. The requirement to file these reports is found at 26 U.S.C. §6041. The "person" they are referring to in the article is none other than a "public officer" in the government:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART III](#) > [Subpart B](#) > § 6041
[§ 6041. Information at source](#)

(a) Payments of \$600 or more

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

In most cases, these reports are not only false, but fraudulent. The following article documents how the IRS structures the handling of these reports in order to encourage the filing of false reports so as to maximize their revenues from unlawful activities:

The Information Return Scam

<http://famguardian.org/Subjects/Taxes/Remedies/InformationReturnScam.htm>

This "trade or business" scam is found in other titles of the U.S. Code as well. For instance, in Title 31, which is the Money and Finance title, we did a search for the word "trade or business" and were very surprised by what we found there. You may know that when you try to withdraw \$10,000 or more from a bank account, banks will insist on preparing what is called a "[Currency Transaction Report](#)", or "CTR" documenting the withdrawal. This report is sent to the United States Treasury and inputted into the FINCEN computers at the Treasury. The

report is used to catch money launderers and tax evaders who are handling large amounts of cash. Well, the only circumstance under which this report can lawfully be prepared is when the subject is engaged in a "[trade or business](#)"! Here is the section:

[31 CFR §103.30\(d\)\(2\) General](#)

(d) *Exceptions to the reporting requirements of 31 U.S.C. 5331:*

(2) ***Receipt of currency not in the course of the recipient's trade or business.***

The receipt of currency in excess of \$10,000 by a person other than in the course of the person's trade or business is not reportable under 31 U.S.C. 5331.

The "trade or business" they are talking about is exactly the same one that appears in the Internal Revenue Code, folks!

Title 31: Money and Finance: Treasury

[PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS](#)

[Subpart B—Reports Required To Be Made](#)

[§ 103.30 Reports relating to currency in excess of \\$10,000 received in a trade or business.](#)

(c) *Meaning of terms. The following definitions apply for purposes of this section--*

(11) ***Trade or business.*** *The term trade or business has the same meaning as under [section 162 of title 26](#), United States Code.*

Quite a scam, huh? We wrote an article about this scam too, which you can read at:

<http://famguardian.org/Subjects/MoneyBanking/Articles/FedTransReptnRequirements.htm>

The "trade or business" scam in Title 31 in the context of CTR's explains why financial institutions can demand federal ID numbers from depositors, why the federal government needs to be able to track these deposits, and many other considerations. Banks and financial institutions are simply volunteering to help the federal government keep track of its "[employees](#)" and "subcontractors". The Slave Surveillance Numbers (SSN) is the license number used to track federal subcontractors and is used by the federal government to track their "corporate" assets. If you think Microsoft as a corporation is too big for its britches, then what about the mother corporation for *all other* corporations, the United States government? All of the assets owned by a person engaged in a "[trade or business](#)" become "effectively connected" with the U.S. government by virtue of the fact that if a federal employee fails to deduct and withhold the proper "kickback" for which they are liable under [26 U.S.C. §1461](#), then their assets must be tracked so the kickback can be recovered through administrative process without the need to litigate. Being "effectively connected" means they are administratively attachable without the need for litigation by using an automated "Notice of Levy" form that isn't even signed. If you are going to engage in "commerce" or business with the government, then you have to help them make it "efficient", right? Doesn't that come with the territory: Never look a gift horse in the mouth? Well, "Uncle" is your new "gift horse", your Master, and you are the slave. The assets of a federal subcontractor only cease to be administratively attachable at the point when the subcontractor fulfills their fiduciary duty as a "transferee" under [26 U.S.C. §6901](#) and [6903](#) and deducts the correct amount of "tax", or "kickback" to send to their new "employer", the federal government. In effect, they are "Kelly Girls" for the federal government who handle their own payroll and send payments back to the mother corporation. The compensation they receive for doing their own payroll comes in the form of a reduced tax liability, procured by taking itemized deductions, earned income credit, and applying a graduated rate of tax. Those not engaged in a "[trade or business](#)" are not allowed to avail themselves of any such "privileges". If you don't want to continue to be treated inhumanely like a "taxpayer", then quit acting like one, quit sucking on the government tit, and quit asking for "Uncle" to take care of you by volunteering to engage in privileged activities in order to procure special incentives and favors you don't need anyway.

The "[trade or business](#)" requirement also extends to nearly all other types of payment reporting within the I.R.C. Here are just a few examples:

1. IRS Publication 334 entitled [Tax Guide for Small Businesses](#), Year 2002, p. 12 says:

Form 8300. *You must file form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, if you receive more than \$10,000 in cash in one transaction, or two or more related business transactions. Cash includes U.S. and foreign coin and currency. It also includes certain monetary instruments such as cashier's and traveler's checks and money orders. Cash does not include a check drawn on an individual's personal account (personal check). For more information, see Publication 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business)*

[\[http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub334.pdf\]](http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub334.pdf)

2. IRS Publication 583 entitled [Starting a Business and Keeping Records](#), Rev. May 2002, p. 8 says:

Form 1099-MISC. *Use Form 1099-MISC, Miscellaneous Income, to report certain payments you make in your trade or business. These payments include the following...*

[\[http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub583.pdf\]](http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub583.pdf)

3. IRS Form 1099-MISC Instructions, 2005, p. 1 says:

Trade or business reporting only. *Report on Form 1099-MISC only when payments are mad in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if*

you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Nonprofit organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section 521. Payments by federal, state, or local government agencies are also reportable."

[\[http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1099Inst.pdf\]](http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1099Inst.pdf)

4. Treasury Regulation [26 CFR § 31.3401\(a\)\(11\)-1](#)(a) says that those who are not engaged in a "trade or business" can earn no reportable income on a W-2:

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)

[Subpart E—Collection of Income Tax at Source](#)

[§ 31.3401\(a\)\(11\)-1 Remuneration other than in cash for service not in the course of employer's trade or business.](#)

(a) Remuneration paid in any medium other than cash for services not in the course of the employer's trade or business is excepted from wages and hence is not subject to withholding. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, or other goods or commodities, for services not in the course of the employer's [trade or business](#) does not constitute wages. Remuneration paid in any medium other than cash for other types of services does not come within this exception from wages. For provisions relating to cash remuneration for service not in the course of employer's trade or business, see [§31.3401\(a\)\(4\)–1](#).

5. Treasury Regulation [26 CFR § 31.3401\(a\)\(6\)-1\(b\)](#) says that remuneration earned outside the statutory "United States" (federal territory) is exempted from wages and not subject to withholding.

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)

[Subpart E—Collection of Income Tax at Source](#)

[§ 31.3401\(a\)\(6\)-1 Remuneration for services of nonresident alien individuals.](#)

(b) Remuneration for services performed outside the United States.

Remuneration paid to a nonresident alien individual (other than a resident of Puerto Rico) for services performed outside the United States is excepted from wages and hence is not subject to withholding.

How does the IRS trap "nontaxpayers" who are "nonresident aliens" who refuse to get identifying numbers or fill out a W-4? IRS Publication 515 shows how they do it, which is entitled [Withholding of Tax on Nonresident Aliens and Foreign Entities](#). That publication capitalizes on the confusion of private employers about the meaning of "United States" and "trade or business" by saying the following:

Income Not Effectively Connected

This section discusses the specific types of income that are subject to NRA withholding. The income codes contained in this section correspond to the income codes used on Form 1042-S (discussed later), and in most cases on Tables 1 and 2 found at the end of this publication.

*You must withhold tax at the statutory rates shown in Chart C unless a reduced rate of exemption under a tax treaty applies. For **U.S. source gross income that is not effectively connected with a U.S. trade or business**, the rate is usually 30%. Generally, you must withhold the tax at the time you pay the income to the foreign person. See "When to withhold under Withholding Agent, earlier.*

[\[IRS Publication 515. Withholding of Tax on Nonresident Aliens and Foreign Entities, 2002, p. 14\]](#)

Three "[words of art](#)" are used above that we must pay particular attention to:

1. "[U.S. source](#)": Originating from within the "United States" federal corporation or federal territory.
2. "[gross income](#)": Payment qualifies as "gross income" within the meaning of [26 U.S.C. §61](#). The only payment not connected with a "trade or business" which is explicitly identified in the code as "gross income" is Social Security payments, under [26 U.S.C. §861\(a\)\(8\)](#).
3. "[U.S. trade or business](#)": the functions of a public office in the District of Columbia. "U.S." =federal territory in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and 4 U.S.C. §110(d).

So what they are really saying is that if you are a nonresident alien not engaged in a [trade or business](#) who is receiving payments from the U.S. government in the form of Social Security, then these payments are subject to withholding of 30%, but ONLY if the party doing the withholding has explicitly been designated as a "[withholding agent](#)" by the Secretary as required under [26 U.S.C. §3501](#). We also know that private employers are NOT required to act as withholding agents, by the admission of the IRS' own [Internal Revenue Manual](#):

Internal Revenue Manual

Section [5.14.10.2 \(09-30-2004\)](#)

Payroll Deduction Agreements

2. **Private employers, states, and political subdivisions are not required to enter into payroll deduction [withholding] agreements.** Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.

[SOURCE: <http://www.irs.gov/irm/part5/ch13s10.html>]

15.3 Government Identifying Numbers: SSN and TIN

Whenever you put a government issued identifying number on any document, you are implicitly establishing that you are engaged in the "trade or business" franchise. This fact is easily discerned by examining the following:

1. 26 CFR §301.6109-1(b) indicates that in the case of a foreign person, identifying numbers are only required if that person is engaged in a "trade or business" or if they made an election to be a "U.S. person", meaning public officer in the government.

TITLE 26--INTERNAL REVENUE
CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
PART 301_PROCEDURE AND ADMINISTRATION--Table of Contents
Information and Returns
Sec. 301.6109-1 Identifying numbers.

(b) Requirement to furnish one's own number—

(1) U.S. [GOVERNMENT] persons.

Every U.S. [federal government public officer] person who makes under this title a return, statement, or other document must furnish **its** own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request.

For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see Sec. 31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see Sec. 31.6011(b)-1 of this chapter (Employment Tax Regulations).

(2) Foreign persons.

The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons--

(i) A **foreign person that has income effectively connected with the conduct of a U.S. trade or business** at any time during the taxable year;

(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year;

(iii) A nonresident alien treated as a resident under section 6013(g) or (h);

(iv) A foreign person that makes a return of tax (including income, estate, and gift tax returns), an amended return, or a refund claim under this title but excluding information returns, statements, or documents;

(v) A foreign person that makes an election under Sec. 301.7701-3(c);

(vi) A foreign person that furnishes a withholding certificate described in Sec. 1.1441-1(e)(2) or (3) of this chapter or Sec. 1.1441-5(c)(2)(iv) or (3)(iii) of this chapter to the extent required under Sec. 1.1441-1(e)(4)(vii) of this chapter;

(vii) A foreign person whose taxpayer identifying number is required to be furnished on any return, statement, or other document as required by the income tax regulations under section 897 or 1445. This paragraph (b)(2)(vii) applies as of November 3, 2003; and

(viii) A foreign person that furnishes a withholding certificate described in Sec. 1.1446-1(c)(2) or (3) of this chapter or whose taxpayer identification number is required to be furnished on any return, statement, or other document as required by the income tax regulations under section 1446. This paragraph (b)(2)(viii) shall apply to partnership taxable years beginning after May 18, 2005, or such earlier time as the regulations under Sec. 1.1446-1 through 1.1446-5 of this chapter apply by reason of an election under Sec. 1.1446-7 of this chapter.

1.1. The "U.S. person" they are describing in above is defined in 26 U.S.C. §7701(a)(30) and it means a person in the "U.S." defined in 26 U.S.C. §7701(a)(9) and (a)(10) , which means a government public officer. Everything that public officer makes that originates from the government is "trade or business" earnings. This is also confirmed by 26 U.S.C. §864(c)(3) , which says that everything originating from the "U.S." described is "trade or business" earnings.

1.2. Notice also that the "foreign person" described above is only required to provide the number if they are engaged in the "trade or business" franchise or if they made an election under 26 U.S.C. §6013(g) or (h) to be treated as a resident alien. Such an election would be ILLEGAL for those who are nationals but not aliens, such as those domiciled in a state of the Union. Only foreign nationals can make such an election.

2. IRS Form 1042s Instructions, Year 2006, p. 14. What all of the circumstances below have in common is that they involve a "benefit" that is usually financial or tangible to the recipient, and therefore require a franchisee license number called a Taxpayer Identification Number:

Box 14, Recipient's U.S. Taxpayer Identification Number (TIN)

You must obtain a U.S. taxpayer identification number (TIN) for:

- Any recipient whose income is effectively connected with the conduct of a trade or business in the United States.
Note. For these recipients, exemption code 01 should be entered in box 6.
- Any foreign person claiming a reduced rate of, or exemption from, tax under a tax treaty between a foreign country and the United States, unless the income is an unexpected payment (as described in Regulations section 1.1441-6(g)) or consists of dividends and interest from stocks and debt obligations that are actively traded; dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund); dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were, upon issuance) publicly offered and are registered with the Securities and Exchange Commission under the Securities Act of 1933; and amounts paid with respect to loans of any of the above securities.
- Any nonresident alien individual claiming exemption from tax under section 871(f) for certain annuities received under qualified plans.
- A foreign organization claiming an exemption from tax solely because of its status as a tax-exempt organization under section 501(c) or as a private foundation.
- Any QI.
- Any WP or WT.
- Any nonresident alien individual claiming exemption from withholding on compensation for independent personal services [services connected with a "trade or business"].
- Any foreign grantor trust with five or fewer grantors.
- Any branch of a foreign bank or foreign insurance company that is treated as a U.S. person.

If a foreign person provides a TIN on a Form W-8, but is not required to do so, the withholding agent must include the TIN on Form 1042-S.

3. IRS form 1040NR Instructions, Year 2007, p. 9. You can't avail yourself of the "benefits" of the franchise without providing your franchisee license number.

Line 7c, Column (2)

You must enter each dependent's identifying number (SSN, ITIN, or adoption taxpayer identification number (ATIN)). If you do not enter the **correct identifying number**, at the time we process your return we may **disallow the exemption claimed** (such as the child tax credit) based on the dependent.

15.4 Domicile, residence, and Resident Tax Returns such as IRS Form 1040

The requirement to pay an income tax originates from the coincidence of one's domicile along with the excise taxable activities they engage in within the place of domicile:

"domicile. A person's legal home. That place where a man has his true, fixed, and **permanent home** and principal establishment, and to which whenever he is absent he has **the intention of** returning. *Smith v. Smith*, 206 Pa.Super. 310m 213 A.2d 94. Generally, physical presence within a state and **the intention** to make it one's home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place to which he **intends to** return even though he may actually reside elsewhere. A person may have more than one residence but only one domicile. **The legal domicile of a person is important since it, rather than the actual residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges.**"

[Black's Law Dictionary, Sixth Edition, p. 485]

The above requirement of domicile is then found in 26 CFR §1.1-1(a) and is hidden within the words "citizen" and "resident":

TITLE 26--INTERNAL REVENUE
CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY
PART 1_INCOME TAXES--Table of Contents
Sec. 1.1-1 Income tax on individuals.

(a) General rule.

(1) Section 1 of the Code **imposes an income tax on the income of every individual who is a citizen or resident of the United States** and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than \$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See part IV (section 31 and following), subchapter A, chapter

1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

What "citizens" and "residents" have in common is a legal domicile in the "United States". Collectively, persons with a legal domicile within a jurisdiction are called "inhabitants" and "U.S. persons":

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)
[Sec. 7701. - Definitions](#)

(a) Definitions

(30) [United States](#) person

The term "United States person" means -

(A) a [citizen](#) or [resident](#) of the United States,

(B) a domestic partnership,

(C) a domestic [corporation](#),

(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E) any trust if -

(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

(ii) one or more United States persons have the authority to control all substantial decisions of the trust.

Below is a table showing the relationship between ones domicile and their statutory citizenship status:

Table 3: Effect of domicile on citizenship status

Description	CONDITION		
	Domicile WITHIN the FEDERAL ZONE and located in FEDERAL ZONE	Domicile WITHIN the FEDERAL ZONE and temporarily located abroad in foreign country	Domicile WITHOUT the FEDERAL ZONE and located WITHOUT the FEDERAL ZONE
Location of domicile	"United States" per 26 U.S.C. §§7701(a)(9) and (a)(10) , 7701(a)(39) , 7408(d)	"United States" per 26 U.S.C. §§7701(a)(9) and (a)(10) , 7701(a)(39) , 7408(d)	Without the "United States" per 26 U.S.C. §§7701(a)(9) and (a)(10) , 7701(a)(39) , 7408(d)
Physical location	Federal territories, possessions, and the District of Columbia	Foreign nations ONLY (NOT states of the Union)	Foreign nations states of the Union Federal possessions
Tax Status	"U.S. Person" 26 U.S.C. §7701(a)(30)	"U.S. Person" 26 U.S.C. §7701(a)(30)	"Nonresident alien" 26 U.S.C. §7701(b)(1)(B)
Tax form(s) to file	IRS Form 1040	IRS Form 1040 plus 2555	IRS Form 1040NR: "alien individuals", "nonresident alien individuals" No filing requirement: "non-citizen nationals"
Status if DOMESTIC national	Citizen 8 U.S.C. §1401 (Not required to file if physically present in the "United States" because no statute requires it)	Citizen abroad 26 U.S.C. §911 (Meets presence test)	"non-citizen National" 8 U.S.C. §1101(a)(21) 8 U.S.C. §1101(a)(22)(B) 8 U.S.C. §1408 8 U.S.C. §1452
Status if FOREIGN national	"Resident alien" 26 U.S.C. §7701(b)(1)(A)	"Resident alien abroad" 26 U.S.C. §911 (Meets presence test)	"Nonresident alien individual": 26 CFR §1.1441-1(c)(3)(ii) "Alien": 8 U.S.C. §1101(a)(3) "Alien individual": 26 CFR §1.1441-1(c)(3)(i)

NOTES:

- "United States" is defined as federal territory within [26 U.S.C. §§7701\(a\)\(9\)](#) and [\(a\)\(10\)](#), [7701\(a\)\(39\)](#), and [7408\(d\)](#), and [4 U.S.C. §110\(d\)](#).
- The "District of Columbia" is defined as a federal corporation but not a physical place, a "body politic", or a de jure "government" within the District of Columbia Act of 1871, 16 Stat. 419, 426, Sec. 34. See: [Corporatization and Privatization of the Government](#), Form #05.024; <http://sedm.org/Forms/FormIndex.htm>.
- American nationals who are domiciled outside of federal jurisdiction, either in a state of the Union or a foreign country, are "nationals" but not "citizens" under federal law. They also qualify as "nonresident aliens" under [26 U.S.C. §7701\(b\)\(1\)\(B\)](#).

See sections 4.11.2 of the [Great IRS Hoax](#) for details.

4. Temporary domicile in the middle column on the right must meet the requirements of the "Presence test" documented in IRS publications.
5. "FEDERAL ZONE"=District of Columbia, Puerto Rico, and the territories and insular possessions of the United States in the above table.
6. The term "[individual](#)" as used on the IRS form 1040 means an "[alien](#)" engaged in a "[trade or business](#)". All "taxpayers" are "aliens" engaged in a "trade or business". This is confirmed by 26 CFR §1.1441-1(c)(3), 26 CFR §1.1-1(a)(2)(ii), and [5 U.S.C. §552a\(a\)\(2\)](#). Statutory "[U.S. citizens](#)" as defined in [8 U.S.C. §1401](#) are not "[individuals](#)" unless temporarily abroad pursuant to [26 U.S.C. §911](#) and subject to an income tax treaty with a foreign country. In that capacity, statutory "[U.S. citizens](#)" interface to the I.R.C. as "aliens" rather than "U.S. citizens" through the tax treaty.

The term "United States" is then defined as the federal territory in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) and nowhere expressly extended to include states of the Union. This is the same "United States" within which EVERYTHING is presumed to be "trade or business" earnings, which implies that what they are really referring to is the "United States" federal corporation or government, and not the geographical United States:

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)
[§864. Definitions and special rules](#)

(c) *Effectively connected income, etc.*

(3) *Other income from sources within United States*

All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

A person who therefore is a "citizen" or "resident" within the I.R.C. and who therefore has a legal domicile in the "United States" is equivalent to either the government or a public officer representing the government. This is established in the memorandum of law below:

<p><i>Why Your Government is Either a Thief Or You are a "Public Officer" for Income Tax Purposes</i>, Form #05.008 http://sedm.org/Forms/FormIndex.htm</p>

Therefore, whenever you file a "resident" tax form, such as form 1040, then you are indirectly admitting a legal domicile within the "United States" and all of your earnings are therefore presumed to be connected with the "trade or business" franchise pursuant to 26 U.S.C. §864(c)(3).

1040A 11327A Each
U.S. Individual Income Tax Return

Annual income **tax return filed by citizens and residents of the United States**. There are separate instructions available for this item. The catalog number for the instructions is 12088U.

W:CAR:MP:FP:F:I Tax Form or Instructions
[[IRS Published Products Catalog](#), Year 2003, p. F-15;
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSDoc7130.pdf>]

This is also confirmed by the IRS Form 1040 itself, because everything on the form is subject to "trade or business" deductions under 26 U.S.C. §162. Those not engaged in the "trade or business" franchise cannot lawfully take such deductions. Everything listed in the deduction against which a deduction is taken therefore effectively becomes "private property donated to a public use to procure the benefits of the trade or business franchise". The deductions are the "benefit" or "privilege" of participating in the franchise and act essentially as employment compensation associated with the "public office".

The only way you can avoid participating in the "trade or business" franchise is to file a nonresident tax return, such as IRS Form 1040NR. Of this form, IRS Publication 519 says the following:

Income

*All income for your period of residence and all income that is effectively connected with a trade or business in the United States for your period of nonresidence, after allowable deductions, is added and taxed at the rates that apply to U.S. citizens and residents. **Income that is not connected with a trade or business in the United States for your period of nonresidence is subject to the flat 30% rate or lower treaty rate. You cannot take any deductions against this income.***

[IRS Publication 519, Year 2005, p. 30]

In fact, it is participation in the franchise that effectively makes you a "resident" under the I.R.C. Whether a "person" is a "resident" or "nonresident" has NOTHING to do with the nationality or residence, but with whether it is engaged in a "trade or business":

[26 CFR §301.7701-5 Domestic, foreign, resident, and nonresident persons.](#)

A domestic corporation is one organized or created in the United States, including only the States (and during the

periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. **A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation.** A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. **Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.**

[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]
[SOURCE: 26 CFR §301.7701-5 year 2005 and prior]

The legal mechanism for becoming a "resident" by engaging in a commercial franchise with the government originates from the Foreign Sovereign Immunities Act, 28 U.S.C. §1605(a)(2), which makes the person into a "resident" when they consensually engage in "commerce" within the exclusive jurisdiction of the sovereign within its own territory:

[TITLE 28](#) > [PART IV](#) > [CHAPTER 97](#) > § 1605

[§ 1605. General exceptions to the jurisdictional immunity of a foreign state](#)

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

Once you engage in commerce within the jurisdiction of the sovereign and consent to the franchise agreement:

1. You are deemed "resident" and "present" within the jurisdiction of the sovereign.

*In International Shoe Co. v. Washington, 326 U.S. 310 (1945), the Supreme Court held that a court may exercise personal jurisdiction over a defendant consistent with due process only if he or she has "certain minimum contacts" with the relevant forum "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.' " Id. at 316 (quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940)) . **Unless a defendant's contacts with a forum are so substantial, continuous, and systematic that the defendant can be deemed to be "present" in that forum for all purposes, a forum may exercise only "specific" jurisdiction** - that is, jurisdiction based on the relationship between the defendant's forum contacts and the plaintiff's claim.*

[. . .]

In this circuit, we analyze specific jurisdiction according to a three-prong test:

- (1) The non-resident defendant must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws;
- (2) the claim must be one which arises out of or relates to the defendant's forum-related activities; and
- (3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable.

Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 802 (9th Cir. 2004) (quoting Lake v. Lake, 817 F.2d 1416, 1421 (9th Cir. 1987)). The first prong is determinative in this case. We have sometimes referred to it, in shorthand fashion, as the "purposeful availment" prong. Schwarzenegger, 374 F.3d at 802. Despite its label, this prong includes both purposeful availment and purposeful direction. It may be satisfied by purposeful availment of the privilege of doing business in the forum; by purposeful direction of activities at the forum; or by some combination thereof.

[\[Yahoo! Inc. v. La Ligue Contre Le Racisme Et L'Antisemitisme. 433 F.3d 1199 \(9th Cir. 01/12/2006\)\]](#)

2. Your legal identity moves to the District of Columbia pursuant to 26 U.S.C. §§7701(a)(39) and 7408(d).

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 79](#) > § 7701

[§ 7701. Definitions](#)

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(39) Persons residing outside United States

If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

(A) jurisdiction of courts, or

(B) enforcement of summons.

16. How to prevent being involuntarily or fraudulently connected with the "trade or business" franchise

Based on all the foregoing, if you are a "nonresident alien" not engaged in a "trade or business" under [26 U.S.C. §871\(b\)](#) with no income from the U.S. Government or federal territory under [26 U.S.C. §871\(a\)](#), then you aren't even mentioned in the I.R.C. as a subject for any Internal Revenue tax and your estate is a "foreign estate" pursuant to [26 U.S.C. §7701\(a\)\(31\)](#). *Great IRS Hoax* starting in section 4.11 proves that nearly all Americans living in states of the Union are "nonresident aliens", and so the above provision must apply to you, folks. Therefore, you are a "nonresident alien" with no "sources of income" connected with a public office in the District of Columbia and if you want to prevent being involuntarily connected with the "trade or business" franchise, then you:

1. Must refuse to sign IRS Form W-4 and instead use one of the following two forms:
 - 1.1. Amended version of IRS Form W-8BEN. See:

About IRS Form W-8BEN, Form #04.202
<http://sedm.org/Forms/FormIndex.htm>
 - 1.2. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001
<http://sedm.org/Forms/FormIndex.htm>
2. Must claim that you are not engaged in an excise taxable activity under the I.R.C. subtitle A.
3. Must claim that you don't earn any "gross income".
4. Must claim that you have no taxable "sources of income" identified in [26 U.S.C. §864\(c\)\(4\)\(A\)](#).
5. Must claim that you are a "nontaxpayer" not subject to the I.R.C. All portions within the I.R.C., IRS publications, and the Internal Revenue Manual that refer to "taxpayers" *don't* refer to you and can safely be disregarded and disobeyed.
6. Must claim that you are not subject to withholding on any payments you receive if you earn no income from the statutory "United States" or are not engaged in a "trade or business".
7. If any money was withheld from your pay by either a business or a financial institution, then you are due for a refund of all withholding and can lawfully ask for it back using the following form WITHOUT becoming a "taxpayer":

Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government, Form #15.001
<http://sedm.org/Forms/FormIndex.htm>
8. Cannot lawfully file an IRS Form 1040, because EVERYTHING that goes on that form is treated as "effectively connected with a trade or business". All entries on the form are subject to deductions and exemptions under 26 U.S.C. §162, which means EVERYTHING on the form is "trade or business" income. If you sign and submit this form, you are committing perjury under penalty of perjury. This is confirmed by examining [26 U.S.C. §871\(b\)\(1\)](#), which says that all taxes imposed in I.R.C. Section 1 are connected with a "trade or business", and IRS Form 1040 is intended for those subject to this tax. The 1040 form is also for "aliens", and not "nonresident aliens", as was shown in section 5.5.3 of the *Great IRS Hoax*.
9. Cannot lawfully have Currency Transaction Reports (CTRs) filed against you by financial institutions, such as IRS Form 8300. If anyone mistakenly attempts to file these fraudulent reports against you, then use the remedy below. See IRS Publication 334 entitled *Tax Guide for Small Businesses*, p. 12 above:

Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report, Form #04.008
<http://sedm.org/Forms/FormIndex.htm>
10. Cannot lawfully allow have any earnings reported on a W-2. [26 CFR §31.3401\(a\)\(11\)-1\(a\)](#) says that those not engaged in a "trade or business" cannot earn reportable "wages". If wages are incorrectly reported by an ignorant private employer, you can and should correct them using the IRS Form 4852, as shown in the article at:

Correcting Erroneous IRS Form W-2's, Form #04.006
<http://sedm.org/Forms/FormIndex.htm>
11. Cannot lawfully allow IRS Form 1042-S to be filed against you because this form is ONLY for persons engaged in a "trade or business". If a company does erroneously file this form, you can lawfully correct it using the article below:

Correcting Erroneous IRS Form 1042's, Form #04.003
<http://sedm.org/Forms/FormIndex.htm>
12. Cannot lawfully allow IRS Form 1098 to be filed against you because this form is ONLY for persons engaged in a "trade or business". If a company does erroneously file this form, you can lawfully correct it using the article below:

Correcting Erroneous IRS Form 1098's, Form #04.004
<http://sedm.org/Forms/FormIndex.htm>
13. Cannot lawfully allow IRS Form 1099 to be filed against you because this form is ONLY for persons engaged in a "trade or business". See IRS Pub 583, *Starting a Business and Keeping Records*, p. 8 above. If a company does erroneously file this form, you can lawfully correct it using the article below:

Correcting Erroneous IRS Form 1099's, Form #04.005
<http://sedm.org/Forms/FormIndex.htm>

Keep all of the above fresh in your mind at all times as you decide how you are going to file in order to get all your ILLEGALLY STOLEN, I mean "withheld", money back from an ignorant employer or financial institution who refuses to read and obey the "code" (not "law", but "code"). Also keep in mind that most of this section is entirely "academic masturbation", as tax attorney Donald MacPherson colorfully calls it, because the Internal Revenue Code isn't law for "nontaxpayers" anyway and can't become law unless and until it is enacted into positive law. Therefore, the only people it pertains to are those who volunteer, and all these people are directly associated with the government as a federal "instrumentality" in some way.

17. Other important implications of the scam

Now that we completely understand how [Subtitle A of the Internal Revenue Code](#) works as an excise tax upon a voluntary and avoidable taxable activity called a "[trade or business](#)" within the statutory but not constitutional "United States*" (federal territory), this explains the reason why proponents of the 861 Position described starting in the next section have been so vehemently hated and attacked by the government and the IRS. What they are doing, in most cases without even realizing it, is using the regulation at [26 CFR §1.861-8\(f\)\(1\)](#) to draw attention to the fact that the federal income tax is in fact an excise tax, and that the "taxable activities" are all enumerated individually in this regulation and nowhere else in either the I.R.C. or the Treasury Regulations. This regulation also happens to be the only regulation that describes exactly how to apply earnings from each enumerated "taxable activity" to the process of computing one's tax liability. Is it any surprise that the government doesn't want evidence like this in the hands of people? This interferes with their "[voluntary compliance](#)" efforts and exposes their willful and malicious fraud for what it is, and this is why they don't like it. This observation is the reason why most of the helpful examples contained within this regulation have been systematically removed over the years: to prevent people from correctly concluding that they aren't engaged in foreign commerce or public office and therefore don't owe the government any money.

Unfortunately, proponents of the 861 Position such as Larken Rose and those before him such as Thurston Bell fail to fully comprehend how they fit into this carefully crafted legal deception, fail to understand the nature of federal jurisdiction, and fail to fully understand that a "code" which only applies to those who volunteer to become engaged in a "[trade or business](#)" doesn't apply to them if they choose not to volunteer. They have spent so much time looking at the trees that they forgot about the forest and are being maliciously persecuted by the IRS mainly because of this monumental oversight. They don't understand that the I.R.C. was not enacted into positive law and in fact constitutes essentially a voluntary contract. This is not intended as a personal criticism by any means, but simply a realistic observation intended to help keep you out of trouble. Those who choose not to "sign" or consent to the contract by submitting the W-4 or filing a 1040 form with a nonzero "income" can have no legal liabilities under the code and cannot be described as "taxpayers" who are subject to it. Larken Rose thinks the "code" is "law" or "public law" for everyone, but in fact it is "private law" that is only "law" for "[taxpayers](#)", all of whom have consented to it in one way or another at some point in time. See the following free memorandum of law which proves this point:

[Requirement for Consent](#), Form #05.003
<http://sedm.org/Forms/FormIndex.htm>

18. Why the IRS and the Courts WON'T Talk about what a "trade or business" or "public office" is and collude to Cover Up the Scam

*"The 'Truth' about income taxes is so precious to the U.S. government that it must be surrounded by a bodyguard of lies."
[Family Guardian Fellowship]*

The government perpetuates the "trade or business" FRAUD and scam by the following means:

1. Refusing to discuss the meaning of a "trade or business" in their publications or their phone support.
2. Refusing to discuss the meaning of a "public office" in their publications or their phone support.
3. Calling those who raise the issues documented here as "frivolous" or "preposterous" without citing any relevant legal authority justifying such a conclusion that is consistent with the following pamphlet:

[Reasonable Belief About Income Tax Liability](#), Form #05.007
<http://sedm.org/Forms/FormIndex.htm>

4. Trying to cover up their fraud using the word "includes" scam documented below:

[Meaning of the Words "includes" and "including"](#), Form #05.014
<http://sedm.org/Forms/FormIndex.htm>

There are many very good reasons why they try to deflect attention away from the scam. Some of the reasons are as follows:

1. The IRS would have to admit that they aren't part of the government and are a private corporation, which in fact they are. **Remember:** A "public officer" is someone who has no supervisor other than the law and the courts and who exercises a sovereign functions of the government INDEPENDENTLY of oversight other than the law and the courts:

"Essential characteristics of a 'public office' are:

- (1) Authority conferred by law,
- (2) Fixed tenure of office, and
- (3) Power to exercise some of the sovereign functions **of government.**

Key element of such test is that "officer is carrying out a sovereign function. Spring v. Constantino, 168 Conn. 563, 362 A.2d 871, 875. Essential elements to establish public position as 'public office' are:

Position must be created by Constitution, legislature, or through authority conferred by legislature.

Portion of sovereign power of government must be delegated to position,

Duties and powers must be defined, directly or implied, by legislature or through legislative authority.

Duties must be performed independently without control of superior power other than law, and

Position must have some permanency."

[Black's Law Dictionary, Sixth Edition, p. 1230]

If the IRS was an administrative part of the government and ESPECIALLY if it were in the Executive Branch as they want you to deceive

you into believing, then they couldn't have any enforcement authority at all without admitting that the people they are enforcing against in fact ARE NOT "public officers" as legally defined because they are being supervised by other than ONLY the courts and the law alone. These considerations explain why:

- 1.1. No statute authorizes or ever has authorized the creation of the IRS. See:

Letter from Congressman Pat Danner, Sept. 12, 1996
<http://famguardian.org/TaxFreedom/Evidence/Jurisdiction/IRSnotGov.pdf>

- 1.2. Historical Treasury Organization Charts do not show the IRS as being in the Dept. of the Treasury. See:

SEDM Exhibit #05.010
<http://sedm.org/Exhibits/ExhibitIndex.htm>

- 1.3. Title 31 of the U.S. Code does not list the Internal Revenue Service as being within the Dept. of the Treasury, even though their letterhead FRAUDULENTLY says they are. See:

SEDM Exhibit #08.001
<http://sedm.org/Exhibits/ExhibitIndex.htm>

- 1.4. The Dept. of Justice has admitted under oath during legal discovery that the IRS is not an agency of the Federal Government. See:

SEDM Exhibit #08.004
<http://sedm.org/Exhibits/ExhibitIndex.htm>

For further details on the absolute FRAUD to cover up the above information, read the evidence for yourself:

Origins and Authority of the Internal Revenue Service, Form #05.005
<http://sedm.org/Forms/FormIndex.htm>

2. All "public officers" have a fiduciary duty to the people they serve, which means they have a fiduciary duty to YOU to act in YOUR best interest as a human being protected by the Constitution. If you can prove your oppressors are "taxpayers" and therefore "public officers", then their omissions that injure you would become actionable and a tort.

"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [1] Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts. [2] That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [3] and owes a fiduciary duty to the public. [4] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [5] Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy. [6]"

[63C Am.Jur.2d, Public Officers and Employees, §247]

[1] *State ex rel. Nagle v Sullivan*, 98 Mont 425, 40 P2d 995, 99 ALR 321 ; *Jersey City v Hague*, 18 NJ 584, 115 A2d 8 .

[2] *Georgia Dep't of Human Resources v Sistrunk*, 249 Ga 543, 291 SE2d 524 . *A public official is held in public trust. Madlener v Finley (1st Dist) 161 Ill App 3d 796, 113 Ill Dec 712, 515 NE2d 697, app gr 117 Ill Dec 226, 520 NE2d 387 and revd on other grounds 128 Ill 2d 147, 131 Ill Dec 145, 538 NE2d 520.*

[3] *Chicago Park Dist. v Kenroy, Inc.*, 78 Ill 2d 555, 37 Ill Dec 291, 402 NE2d 181 , *appeal after remand (1st Dist) 107 Ill App 3d 222, 63 Ill Dec 134, 437 NE2d 783.*

[4] *United States v Holzer (CA7 Ill) 816 F2d 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L Ed 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F2d 1343, cert den 486 U.S. 1035, 100 L Ed 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v Osser (CA3 Pa) 864 F2d 1056) and (superseded by statute on other grounds as stated in United States v Little (CA5 Miss) 889 F2d 1367) and (among conflicting authorities on other grounds noted in United States v Boylan (CA1 Mass) 898 F2d 230, 29 Fed Rules Evid Serv 1223).*

[5] *Chicago ex rel. Cohen v Keane*, 64 Ill 2d 559, 2 Ill Dec 285, 357 NE2d 452, *later proceeding (1st Dist) 105 Ill App 3d 298, 61 Ill Dec 172, 434 NE2d 325.*

[6] *Indiana State Ethics Comm'n v Nelson (Ind App) 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).*

3. Any officer of the state government, including a state judge, who is also a federal "taxpayer" would have to admit that he is violating the Constitution of his state by simultaneously being a "public officer" in the federal government and a public officer in the state government at the same time. Most state constitutions and/or state statutes forbid public officers within the state government from also being public officers in the federal government. This is done to prevent a violation of the separation of powers doctrine between the state and federal governments as well as to prevent conflicts of interest and allegiance by public servants. Why, then, do state courts have federal Employer Identification Numbers (EINs)? Shouldn't they be exempt from such requirement to preserve the separation of powers? Here is an example within the California Constitution:

CALIFORNIA CONSTITUTION
ARTICLE 7 PUBLIC OFFICERS AND EMPLOYEES

SEC. 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit [within the state government]. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service.

For more information about the systematic destruction of the separation of powers by malicious public servants aimed squarely and undermining the enforcement of your constitutional rights, see:

[Government Conspiracy to Destroy the Separation of Powers Doctrine](http://sedm.org/Forms/FormIndex.htm), Form #05.023
<http://sedm.org/Forms/FormIndex.htm>

4. "Taxpayer" attorneys representing clients in state court would have to recuse themselves from the practice of law for violating the state constitutional prohibition against serving simultaneously in both a public office in the federal government and a public office in the state government. All attorneys are officers of the court they are licensed to practice in. If that court is a state court, they are public officers of the state government and therefore cannot also serve as public officers of the federal government called "taxpayers":

Attorneys at Law

§3 Nature of Attorneys Office

An attorney is more than a mere agent or servant of his or her client; within the attorney's sphere, he or she is as independent as a judge, has duties and obligations to the court as well as to his or her client, and has powers entirely different from and superior to those of an ordinary agent. [1] In a limited sense an attorney is a public officer, [2] although an attorney is not generally considered a "public officer," "civil officer," or the like, as used in statutory or constitutional provisions. [3] The attorney occupies what may be termed a "quasi-judicial office" [4] and is, in fact, an officer of the court. [5]

[American Jurisprudence Legal Encyclopedia 2d, Attorneys At Law, §3 Nature of Office]

[1] *Curtis v Richards*, 4 Idaho 434, 40 P 57; *Herfurth v Horine*, 266 Ky 19, 98 SW2d 21; *J. A. Utley Co. v Borchard*, 372 Mich 367, 126 NW2d 696 (superseded by statute on other grounds as stated in *Davis v O'Brien*, 152 Mich App 495, 393 NW2d 914); *Hoppe v Klapperich*, 224 Minn 224, 28 NW2d 780, 173 ALR 819.

[2] *In re Bergeron*, 220 Mass 472, 107 NE 1007.

[3] *National Sav. Bank v Ward*, 100 US 195, 100 Otto 195, 25 L Ed 621 (not followed on other grounds as stated in *Flaherty v Weinberg*, 303 Md 116, 492 A2d 618, 61 ALR4th 443); *In re Thomas*, 16 Colo 441, 27 P 707; *State v Rush*, 46 NJ 399, 217 A2d 441, 21 ALR3d 804 (superseded by statute on other grounds as stated in *In re Guardianship of G.S., III*, 137 NJ 168, 644 A2d 1088).

The North Dakota Constitution specifically provides that the office of attorney-at-law is a public office. Menz v Coyle (ND) 117 NW2d 290 (criticized on other grounds by Gange v Clerk of Burleigh County Dist. Court (ND) 429 NW2d 429).

[4] *Hoppe v Klapperich*, 224 Minn 224, 28 NW2d 780, 173 ALR 819; *State v Hudson*, 55 RI 141, 179 A 130, 100 ALR 313; *Stern v Thompson & Coates*, 185 Wis 2d 221, 517 NW2d 658, reconsideration den (Wis) 525 NW2d 736.

[5] *Powell v Alabama*, 287 US 45, 77 L Ed 158, 53 S Ct 55, 84 ALR 527; *In re Durant*, 80 Conn 140, 67 A 497; *Gould v State*, 99 Fla 662, 127 So 309, 69 ALR 699; *Sams v Olah*, 225 Ga 497, 169 SE2d 790, cert den 397 US 914, 25 L Ed 2d 94, 90 S Ct 916; *People ex rel. Attorney Gen. v Beattie*, 137 Ill 553, 27 NE 1096; *Martin v Davis*, 187 Kan 473, 357 P2d 782, app dismd 368 US 25, 7 L Ed 2d 5, 82 S Ct 1, reh den 368 US 945, 7 L Ed 2d 341, 82 S Ct 376; *In re Keenan*, 287 Mass 577, 192 NE 65, 96 ALR 679; *Lynde v Lynde*, 64 NJ Eq 736, 52 A 694; *Dow Chemical Co. v Benton*, 163 Tex 477, 357 SW2d 565.

5. You as a "taxpayer" and a "public officer" could assert sovereign immunity against other agencies of the government on the basis that it violates the separation of powers doctrine for any agency of the federal government to interfere with the activities of any other agency or office. Taxation is a "legislative" and not a judicial function.[1] This situation is precisely the reason, for instance, why:
- 5.1. The Anti Injunction Act, [26 U.S.C. §7421](#), prohibits courts from interfering with the LAWFUL assessment or collection of income taxes from "public officers" in the Legislative Branch who consent.
- 5.2. The Declaratory Judgments Act, [28 U.S.C. §2201\(a\)](#) prohibits courts from making declaratory judgments in the case of federal "taxes". This prohibition also precludes the courts from identifying anyone as a "taxpayer" who says under penalty of perjury that they aren't.

For further details on this scam, see:

[Government Conspiracy to Destroy the Separation of Powers Doctrine](http://sedm.org/Forms/FormIndex.htm), Form #05.023
<http://sedm.org/Forms/FormIndex.htm>

6. It is ILLEGAL for an "alien" to be a "public officer" and you aren't an alien if you were born in this country. The I.R.C. Subtitle A tax is an

excise tax upon a "trade or business", which is defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a public office". All "taxpayers" in the I.R.C. are aliens engaged in a public office and it is ILLEGAL for aliens to hold public office! See 26 CFR §1.1441-1(c)(3) and 26 CFR §1.1-1(a)(2)(ii) for proof that all "individuals" and "taxpayers" are "aliens" engaged in a "trade or business".

4. Lack of Citizenship

§74. Aliens can not hold Office. - - It is a general principle that an alien can not hold a public office. In all independent popular governments, as is said by Chief Justice Dixon of Wisconsin, "it is an acknowledged principle, which lies at the very foundation, and the enforcement of which needs neither the aid of statutory nor constitutional enactments or restrictions, that the government is instituted by the citizens for their liberty and protection, and that it is to be administered, and its powers and functions exercised only by them and through their agency."

In accordance with this principle it is held that an alien can not hold the office of sheriff. [2]
[A Treatise on the Law of Public Offices and Officers, Floyd Russell Mechem, 1890, p. 27, §74;
SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

7. Courts would have to admit your evidence just as readily as that of any other government officer or employee involved in the action, or else they would be guilty of denying you equal protection of the law and all the "benefits" of the very office that they MUST impute to you in order to treat you as a "taxpayer". This would make them look hypocritical and juries would throw the book at the government for doing this. The Federal Rules of Evidence permit those engaged in a "public office" to receive preferential treatment in getting their evidence admitted in federal court, including evidence without signature and without foundational testimony. The government doesn't want to confer this advantage upon pro per litigants or those opposing the government tax scam. Fed.Rul.Ev. 803(8) permits a "public records" exception to the Hearsay Rule, which means that any tax record, any evidence you gathered in the course of complying with your alleged "duties" as a "public officer" would not be excludible by the judges of federal district courts, which would severely undermine the government's civil or criminal tax case against you. The IRS and DOJ win in federal court primarily by getting federal judges to unlawfully exclude evidence of persons who are litigating against them in order to prejudice the case in favor of the government. Below is what the appropriate section of the Hearsay Rule, Fed.Rul.Ev. 803 says on this subject, noting that "activities of the office or agency", such as a "public office" fall within the protections of this rule:

Rule 803. Hearsay Exceptions: Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

[...]

(8) Public records and reports.

Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

8. Once the government truthfully admits that the income tax described in I.R.C. Subtitles A and C is an "excise tax" upon "public offices" within the United States government, those facing IRS enforcement actions would naturally introduce some very compromising questions that would put the IRS into a very tight spot that they could never get out of:
- 8.1. How can you force me to act as a "public officer" without my consent? Where is the evidence that I consented to act in this capacity?
 - 8.2. Where is the constitutionally required oath of office for me to act as a "public officer"?
 - 8.3. Where is the act of Congress that authorizes the specific "public office" that you allege that I am engaged in as required by [4 U.S.C. §72](#)?
 - 8.4. Where is the compensation to act as a "public officer", because I don't work for free and the Thirteenth Amendment prohibits involuntary servitude?
 - 8.5. What if I don't think the compensation to act as a "public office" offered by I.R.C. Sections 1, 32, and 162 is adequate? How can I quit this form of federal agency and/or employment? Show me the forms to do this permanently?
 - 8.6. How can people who submit false information returns that connect me to a "public office" have any lawful authority at all to donate or convert my private labor and property to a "public use" and a "public office" without my express written consent? If disinterested third parties can do that, it never was my property to begin with, now was it?

"That property which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation."

[Budd v. People of State of New York, 143 U.S. 517 (1892)]

8.7. Shouldn't my word as a "public officer" be taken over that of the private third parties who submit the false information returns that connect me to the alleged "office" to begin with, based on the Hearsay Rule, Fed.Rul.Ev. 803(8)? Why are you not granting to an alleged fellow "public officer" such as yourself this privilege or benefit of the office?

8.8. Are information returns filed against those not lawfully engaged in public offices being used a "federal election forms" to in effect "vote"

people into public office, and is this a lawful use for such a form? Does withholding connected with these information returns then become bribery to procure an appointed or elected public office in the case of a person who was not otherwise lawfully engaged in such an office, in criminal violation of 18 U.S.C. §201?

On the subject of the [Hearsay Rule, Fed.Rul.Ev. 803\(8\)](#) above, below is what the Rutter Group, Federal Civil Trials and Evidence says on the Public Records exception to the Hearsay Rule:

7. [8:2780] *Public Records and Reports (FRE 803(8))*: The following are not inadmissible under the hearsay rule:

“Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth:

“(A) the activities of the office or agency, or

“(B) matters observed pursuant to duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or

“(C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting “from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.” [FRE 803(8) (emphasis added)]

a. [8:2781] *Compare—business records exception*: The public records exception is much easier to invoke than the Rule 803(6) business records exception: the public records exception does not require the testimony of a custodian and often requires no foundation witness because the self-authentication provisions of FRE 902 will suffice (see ¶8:2905ff).

b. [8:2782] *Rationale*: This hearsay exception is justified both by considerations of trustworthiness and necessity: Trustworthiness rests on the assumption that public officials perform their duties properly; necessity, on the assumption that they are unlikely to remember details independently of the record. [See Rule 803(8), Adv. Comm. Notes; *Coleman v. Home Depot, Inc.* (3rd Cir. 2002) 306 F3d 1333, 1341; *Espinoza v. INS* (9th Cir. 1995) 45 F3d 308, 310].

The special provision for self-authentication of public records (FRE 902, see ¶8:2907 ff.) also eliminates the disruptive effect of bringing public officials to court. [*Williams v. Tri-County Growers, Inc.* (3rd Cir. 1984) 747 F2d 121, 133 (disapproved on another ground in *Martin v. Cooper Elec. Supply Co.* (3rd Cir. 1991) 940 F2d 896, 908, fn. 11)].

c. [8:2783] *Any form of record*: The hearsay exception covers “[r]ecords, reports, statements or data compilations, in any form. . .” [FRE 803(8) (emphasis added)]

d. [8:2784] *Any government*: The Rule applies to the records or reports of any “public office or agency” (FRE 803(*8)). No distinction is made between federal and nonfederal offices and agencies.

Thus, records of state or local government agencies may be admissible under this exception; likewise as to records of foreign governments. [See *Hill v. Marshall* (6th Cir. 1992) 962 F2d 1209, 1212—report by committee of state legislature; *Matter of Oil Spill by Amoco Cadiz Off Coast of France on March 16, 1978* (7th Cir. 1992) 954 F2d 1279, 1308—records of French Commune]

e. [8:2785] *Types of records admissible*: Rule 803(8) creates a hearsay exception for three separate categories of public record:

- Records of a public agency’s own activities (FRE 803(8)(A), see ¶8:2786 ff.);
- Records of matters observed pursuant to duty imposed by law (FRE 803(8)(B); see ¶8:2810 ff.); and
- Factual findings based on authorized investigative reports (FRE 803(8)(c)); See ¶8:2835 ff.).

[SOURCE: [Rutter Group: Federal Civil Trials and Evidence](#), 2006, pp. 8G-117 to 8G-118
<http://www.ruttergroup.com/cartfcte.htm>]

19. Conclusions and summary

This section summarizes everything we learned in this article and also ties this information in with everything else found on this website:

1. Subtitle A of the Internal Revenue Code describes an excise tax upon a privileged activity called a “[trade or business](#)”. All excise taxes involve franchises of one form or another and all franchises make those who participate into officers, agents, and instrumentalities of the government that granted the franchise. See:

[Government Instituted Slavery Using Franchises](#), Form #05.030

<http://sedm.org/Forms/FormIndex.htm>

2. A “trade or business” is statutorily defined in [26 U.S.C. §7701\(a\)\(26\)](#) as “the functions of a public office”. A “[public office](#)” consists of employment or agency of the federal government in carrying out the sovereign and lawfully authorized functions of the government.
3. Those engaged in a “trade or business” are acting in a representative capacity as “[public officers](#)”, and as such, take on the legal character of the U.S. government, who they represent in accordance with [Federal Rule of Civil Procedure 17\(b\)](#). All corporations are “citizens” under the laws they were created. The U.S. government is statutorily defined as a “federal corporation” in [28 U.S.C. §3002\(15\)\(A\)](#). Therefore, those engaged in a “[trade or business](#)”, while on official duty, become statutory “[U.S. citizens](#)”, regardless of what they started out as.

4. [4 U.S.C. §72](#) requires that all public offices shall be exercised in the District of Columbia and NOT elsewhere except as expressly provided by law.

[TITLE 4 > CHAPTER 3 > § 72](#)
[§ 72. Public offices: at seat of Government](#)

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

5. All income taxes are based on domicile. *Miller Brothers Co. v. Maryland*, [347 U.S. 340](#) (1954). Therefore, Subtitle A of the Internal Revenue Code may only lawfully be imposed or enforced against persons domiciled on federal territory in the statutory but not constitutional "United States***". See:

[Why Domicile and Becoming a "Taxpayer" Require Your Consent](#)
<http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm>

6. Since Congress has not created and cannot lawfully create "public offices" within any state of the Union, then it cannot impose or enforce Subtitle A of the Internal Revenue Code there.

"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for granting coasting licenses, licenses to pilots, licenses to trade with the Indians, and any other licenses necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee. But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects.

Congress cannot authorize a trade or business within a State in order to tax it.
[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

7. All federal identifying numbers, such as SSN's, TINs, and EINs, are government property. 20 CFR §422.103(d). As such, anything you connect them with, including your labor, becomes "private property donated to a public use to procure the benefits of a federal franchise" and connects said property to a "trade or business". If don't want to connect your labor or your property to a "public use" and a "public office", then you must rescind and remove all federal identifying numbers from it in accordance with:

- 7.1. [Resignation of Compelled Social Security Trustee](#), Form #06.002

<http://sedm.org/Forms/FormIndex.htm>

- 7.2. Following the withholding procedures in the following book:

[Federal and State Tax Withholding Options for Private Employers](#), Form #09.001
<http://sedm.org/Forms/FormIndex.htm>

8. No one can lawfully connect your private property, such as your labor or financial assets, to a "public office" or a "public use" without your consent. The very nature of the word "property" implies exclusive use and control, which implies the right to exclude control over it by anyone but you. Therefore, any third party who files a false information return that connects your earnings or your labor to a "public office" or a "public use" without your explicit consent is violating the following laws and others not mentioned:

- 8.1. [26 U.S.C. §7434](#): Civil damages for fraudulent filing of information returns

- 8.2. [26 U.S.C. §7206](#): Fraud and false statements

- 8.3. [26 U.S.C. §7207](#): Fraudulent returns, statements, or other documents

- 8.4. [18 U.S.C. §912](#): Impersonating a public officer.

- 8.5. [18 U.S.C. §4](#): Misprision of felony in connection with all the above.

- 8.6. [18 U.S.C. §654](#): Officer or employee of the United States converting property of another.

9. Everything that goes on an IRS Form 1040 represents government revenue in connection with a "trade or business" because:

- 9.1. The IRS Form 1040 is for the tax imposed in [26 U.S.C. §1](#).

- 9.2. Everything on the IRS Form 1040 is subject to deductions authorized under [26 U.S.C. §162](#) and the only income subject to such deductions, according to [26 U.S.C. §162](#) is "trade or business" income.

- 9.3. [26 U.S.C. §871\(b\)\(2\)](#) says that all taxes imposed in section 1 are connected with a "trade or business".

10. Those not engaged in a "trade or business" cannot truthfully file an IRS form 1040. The only proper form for them to file is the IRS form 1040NR, because this is the only form that includes a block for earnings not connected with a "trade or business".

11. Pursuant to [26 U.S.C. §6041](#), all information returns, such as IRS forms W-2, 1042-S, 1098, 1099, K-1, etc have the effect of connecting the revenue in question to a taxable activity and creating a "prima facie presumption" that the target of the information return is engaged in a "trade or business". Those who are not engaged in a "trade or business" need to rebut this false information return by filing corrected information returns so that they are not incorrectly compelled to associate with federal employment, agency, and contracts in violation of the First Amendment prohibition of compelled association.

12. A "public office" can only be created through the operation of private/special/contract law and your voluntary consent. If you don't consent to act as a public officer and do all the following, then you can't earn "gross income". The process of refusing to consent to engage in contracts and "public office" with the government is effected by:

12.1 Not taking any deductions or credits on a tax return. Only those engaged in a "trade or business" may take deductions and credits, pursuant to [26 U.S.C. §1, 32, and 162](#).

12.2 Not signing and submitting an IRS form W-4 to your private employer. Since the W-4 causes a W-2 to be filed and the W-2 is an information return, only those engaged in a "[trade or business](#)" can fill out and sign the W-4. Private employers cannot lawfully compel submitting of a W-4 for a person who is not engaged in a "[trade or business](#)" and if they do, they are engaged in theft and extortion. See:

Federal and State Withholding Options for Private Employers

<http://famguardian.org/Publications/FedStateWHOptions/FedStateWHOptions.pdf>

12.3 Challenging and rebutting all false information returns that connect you to a "trade or business". See:

12.3.1 *Correcting Erroneous Information Returns*, Form #04.001: Consolidates the next four links.

<http://sedm.org/Forms/FormIndex.htm>

12.3.3 *Correcting Erroneous IRS Form 1042's*, Form #04.03

<http://sedm.org/Forms/FormIndex.htm>

12.3.4 *Correcting Erroneous IRS Form 1098's*, Form #04.004

<http://sedm.org/Forms/FormIndex.htm>

12.3.5 *Correcting Erroneous IRS Form 1099's*, Form #04.005

<http://sedm.org/Forms/FormIndex.htm>

12.3.2 *Correcting Erroneous IRS Form W-2's*, Form #04.006

<http://sedm.org/Forms/FormIndex.htm>

12.3.6 *Income tax Withholding and Reporting Course*, Form #12.004

<http://sedm.org/Forms/FormIndex.htm>

12.4 Challenging and rebutting all false Currency Transaction Reports that connect you to a "[trade or business](#)". See:

Demand for Verified Evidence of "trade or business" Activity: Currency Transaction Report, Form #04.008

<http://sedm.org/Forms/FormIndex.htm>

12.5 Opening your financial accounts as a "nonresident alien" instead of a "[U.S. Person](#)", and do so without a [Social Security Number](#) or TIN. See:

About IRS Form W-8BEN, Form #04.202, Section 7

<http://sedm.org/Forms/FormIndex.htm>

12.6 Terminating Social Security participation. The [Social Security Act of 1936, Title 8, section 801](#) says that you agree to participate in payroll withholding for the income tax if you also participate in Social Security. See the following for the process of doing this:

Resignation of Compelled Social Security Trustee

<http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf>

12.7 Properly declaring your citizenship status on government forms as a constitutional citizen but not a statutory citizen. This will ensure that your domicile is not presumed to be in the "United States" federal government. See:

12.7.1 *Why you are a "national", "state national", and Constitutional but not Statutory Citizen*, Form #05.006

<http://sedm.org/Forms/FormIndex.htm>

12.7.2 *Legal Notice of Change in Citizenship/Domicile Records and Divorce from the United States*, Form #10.001

<http://sedm.org/Forms/FormIndex.htm>

13. Even people who are domiciled in the District of Columbia, unless they work or have contracts with the national government and thereby are engaged in a "[public office](#)", do not earn "[gross income](#)" under I.R.C. Subtitle A. The only exception to this is found in [26 U.S.C. §871\(a\)](#).

14. Pursuant to [26 U.S.C. §864\(c\)\(3\)](#), all earnings from within the "[United States](#)", which means "sources within the United States" are presumed to be connected with a "trade or business". Consequently, the term "[United States](#)" within the [Internal Revenue Code section 7701\(a\)\(9\)](#) and (a)(10) really implies employment, agency, or contracts within the United States national government, and does *not* mean or imply a geographical area.

15. The use of a [Taxpayer Identification Number](#) creates a prima facie presumption that the person using it is engaged in a "[trade or business](#)". You can't use a TIN unless you are engaged in a "trade or business".

16. Pursuant to [31 CFR §103.30\(d\)\(2\)](#), Currency Transaction Reports (CTRs), such as IRS form 8300, Treasury form 8300, may only be filled out against persons engaged in a "[trade or business](#)". It is unlawful to fill out these forms against persons who are not engaged in a "trade or business". If you are not engaged in a "trade or business" and someone tries to incorrectly fill out this form against you, present the following form:

Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.007

<http://sedm.org/Forms/FormIndex.htm>

17. Nonresident aliens not engaged in a "[trade or business](#)" as defined in [26 CFR §1.871-1\(b\)\(i\)](#) cannot earn:

17.1 "Self-employment income", in accordance with [26 U.S.C. §1402](#).

17.2 "personal services" income, in accordance with [26 CFR §1.469-9](#) and [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#). Note that "[compensation for personal services](#)" is the only type of labor taxable under [26 U.S.C. §61\(a\)\(1\)](#).

17.3 "wages" in connection with any work performed outside the "United States" (government), in accordance with [26 CFR §31.3401\(a\)\(6\)-1](#)

17.4 "gross income" pursuant to 26 CFR §1.872-2(f).

17.5 "gross income" in connection with all compensation *not* paid in cash, in accordance with [26 CFR §31.3401\(a\)\(11\)-1](#). In other words, if you are paid in goods and not cash, such as gold or silver, you can't earn "gross income" even if you are engaged in a "trade or business".

18. The IRS wants to deceive you into thinking that [Subtitle A of the I.R.C.](#) describes a direct, unapportioned tax instead of an indirect excise tax upon avoidable privileges connected with a "public office". They willfully perpetuate this illusion in order to keep you from searching for ways to avoid the activity and the taxes associated with the privileged activity. That is why:

18.1 None of their publications precisely define what a "trade or business" is. The one that comes closest is [Publication 54](#), but even it doesn't do the subject justice.

18.2 When you ask them about what a "trade or business" is, they won't tell you.

18.3 When you show them the definition of "trade or business" from [26 U.S.C. §7701\(a\)\(26\)](#), they will try to argue that the word doesn't mean what it says there and that the use of the word "includes" causes the word to mean not what the law says, but whatever they WANT it to mean. This is NOT how law works, folks! See:

[Meaning of the Words "includes" and "including", Form #05.014](#)
<http://sedm.org/Forms/FormIndex.htm>

19. The federal courts are helping the IRS in the above cover-up. We have been unable to locate a single court case that discusses the information contained in this article. The federal courts are making cases that bring it up "unpublished" so that slaves living on the federal plantation will not be able to remove their chains and go free. They are "accessories after the fact" to Racketeer Influenced Corrupt Organization (RICO) crimes against humanity, in violation of [Title 18, Part 1, Chapter 5](#) and [18 U.S.C. §3](#). See: <http://nonpublication.com>. In this regard, the courts have become "predators" rather than "protectors".

20. Most IRS forms illegally create false presumptions about your status that compel you to associate with the "trade or business" activity and become a "taxpayer". See the following article about this SCAM:

[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017](#)
<http://sedm.org/Forms/FormIndex.htm>

IRS very deliberately DOES NOT provide any forms or instructions that help "nontaxpayers" protect their status or prevent becoming the target of unlawful enforcement actions. The best way to avoid these false presumptions is to do the following, in descending order of preference:

20.1. Use standard IRS forms and attach the following form to the IRS form according to the instructions included with the form:

[Tax Form Attachment, Form #04.201](#)
<http://sedm.org/Forms/FormIndex.htm>

20.2. Use AMENDED IRS forms found on the following page.

<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>

20.3. Modify existing IRS forms yourself either electronically or using a pen before you sign it, according to the instruction in the link above, section 1.

21. Anyone who presumes or assumes you are a "taxpayer" under [Subtitle A of the I.R.C.](#) absent authenticated, court-admissible evidence is:

21.1 Assuming you work for the government as an agent, officer, contractor, or employee engaged in a "public office".

21.2 Asserting "eminent domain" over your private labor and property, which is illegal unless you receive "just compensation" pursuant to the requirements of the [Fifth Amendment](#) to the United States Constitution.

21.3 Engaging in slavery and involuntary servitude in criminal violation of the [Thirteenth Amendment](#), [42 U.S.C. §1994](#), and [18 U.S.C. §1581](#) if you do not explicitly and voluntarily personally consent to work for the government without compensation.

21.4 Depriving you of life, liberty, and property in the process of making the presumption, which is unconstitutional.

*(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*

[\[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34\]](#)

20. Further Study

Understanding the "trade or business" scam fits together all the pieces of the puzzle scattered throughout this chapter and explains them in such a cohesive way that it is impossible to argue with. It is far more than simply a "theory", but a fact you can verify yourself by reading the IRS Publications, the code, the Constitution, and the Treasury Regulations. All of them agree with the content of this section. If you would like to learn more about the "trade of business" scam, the following resources may be helpful:

Table 3: Further reading and research

Resource	Address	Description
Cracking the Code	http://www.losthorizons.com/Cracking_the_Code.htm	Book about the "trade or business" fraud by Pete Hendrickson.
Federal and State Income Taxation of Individuals, Form #12.003	http://sedm.org/Forms/FormIndex.htm	Complete but simplified treatment of federal income tax jurisdiction.
Income Tax Withholding and Reporting Course, Form #12.004	http://sedm.org/Forms/FormIndex.htm	Excellent short and simple training course and slideshow explaining income tax

		withholding and reporting. Includes links to several other resources.
Liberty University	http://sedm.org/LibertyU/LibertyU.htm	Complete free training materials on freedom and sovereignty subjects.
Federal and State Tax Withholding Options for Private Employers	http://famguardian.org/Publications/FedStateWHOptions/FedStateWHOptions.pdf	Free book that exhaustively shows how to apply the concepts discussed here to your federal and state tax withholding situation.
Federal Tax Withholding, Form #04.102	http://sedm.org/Forms/FormIndex.htm	Brief, summarized version of the Federal and State Withholding Options for Private Employers book. Intended for busy managers who don't have time to read this entire pamphlet or the entire law on this subject.
Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.007	http://sedm.org/Forms/FormIndex.htm	Present this to private employers to educate them about why they can't file information returns, including W-2, 1042-S, 1098, and 1099 against a person who does not consent to engage in the voluntary excise taxable, privileged "trade or business" activity because they don't want to act as a "public official" and "trustee" of the "public trust".
Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report, Form #04.008	http://sedm.org/Forms/FormIndex.htm	Present this to financial institutions when they attempt to illegally connect you with a "trade or business" in the process of withdrawing \$10,000 or more from a bank account.
Correcting Erroneous IRS Form 1042-S, Form #04.003	http://sedm.org/Forms/FormIndex.htm	Allows you to correct a false IRS form 1042-S that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
Correcting Erroneous IRS Form 1098's, Form #04.004	http://sedm.org/Forms/FormIndex.htm	Allows you to correct a false IRS form 1098's that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
Correcting Erroneous IRS Form 1099's, Form #04.005	http://sedm.org/Forms/FormIndex.htm	Allows you to correct a false IRS form 1099's that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
Correcting Erroneous IRS Form W-2's, Form #04.006	http://sedm.org/Forms/FormIndex.htm	Allows you to correct a false IRS form W-2 that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".

[1] See *Treatise on the Law of Taxation*, Thomas M. Cooley, Second Edition, 1886, p. 47-48 available at:

<http://books.google.com/books?id=N-c9AAAAIAAJ&printsec=titlepage>.

[2] State v. Smith, 14 Siw. 497; State v. Murray, 28 Wis. 96, 9 Am.Rep. 489.

Copyright Family Guardian Fellowship

Last revision: 8/16/09

[Home](#) [About](#) [Contact](#)

This private system is NOT subject to monitoring