

### **3. LEGAL AUTHORITY FOR INCOME TAXES IN THE UNITED STATES\*\* (FEDERAL ZONE)**

Page

<b>3. LEGAL AUTHORITY FOR INCOME TAXES IN THE UNITED STATES** (FEDERAL ZONE)</b> .....	<b>3-1</b>
<b>3.1 Quotes from Thomas Jefferson on the Foundations of Law and Government</b> .....	<b>3-6</b>
<b>3.2 Biblical Law: The Foundation of ALL Law</b> .....	<b>3-7</b>
<b>3.3 Law is a Delegation of authority from the true sovereign: The People</b> .....	<b>3-9</b>
<b>3.4 Natural Law</b> .....	<b>3-12</b>
<b>3.5 The Law of Tyrants</b> .....	<b>3-14</b>
<b>3.6 Basics of Federal Law</b> .....	<b>3-15</b>
3.6.1 Precedence of law .....	3-15
3.6.2 Legal Language: Rules of Statutory Construction.....	3-18
3.6.3 How Laws Are Made.....	3-22
3.6.4 Positive Law .....	3-22
3.6.5 Discerning Legislative Intent and Resolving conflicts between the U.S. Code and the Statutes At Large(SAL) .....	3-23
<b>3.7 Declaration of Independence</b> .....	<b>3-27</b>
3.7.1 God Given INALIENABLE Rights.....	3-28
3.7.2 Dysfunctional Government.....	3-28
3.7.3 Taxation Without Consent.....	3-29
<b>3.8 U.S. Constitution</b> .....	<b>3-29</b>
3.8.1 Constitutional Government.....	3-30
3.8.2 Enumerated Powers, Four Taxes & Two Rules.....	3-30
3.8.3 Constitutional Taxation Protection .....	3-30
3.8.4 Colonial Taxation Light.....	3-31
3.8.5 Taxation Recapitulation.....	3-31
3.8.6 Direct vs. Indirect Taxes.....	3-31
3.8.7 Article I, Section 8, Clauses 1 and 3: The Power to Tax and Regulate Commerce.....	3-32
3.8.8 Bill of Rights.....	3-33
3.8.8.1 1 <sup>st</sup> Amendment: The Right to Petition the Government for Redress of Grievances .....	3-35
3.8.8.2 4 <sup>th</sup> Amendment: Prohibition Against Violation of Privacy and Unreasonable Search and Seizure Without Probable Cause .....	3-36
3.8.8.3 5 <sup>th</sup> Amendment: Self Incrimination and Due Process Rights.....	3-36
3.8.8.3.1 Introduction.....	3-36
3.8.8.3.2 More IRS Double-Speak/Illogic .....	3-36
3.8.8.3.3 IRS Fear Tactics to Keep You “Volunteering” .....	3-37
3.8.8.3.4 Non-Self-Incrimination Right (not PRIVILEGE, but RIGHT) Defined .....	3-37
3.8.8.3.5 The Privacy Act Notice.....	3-40
3.8.8.3.6 IRS Deception In The Privacy Act Notice .....	3-41
3.8.8.3.7 Jesus’ Approach to the 5 <sup>th</sup> Amendment Issue .....	3-41
3.8.8.3.8 Conclusion .....	3-42
3.8.8.4 6 <sup>th</sup> Amendment: Rights of Accused in Criminal Prosecutions.....	3-43
3.8.8.5 10 <sup>th</sup> Amendment: Reservation of State’s Rights .....	3-43
3.8.9 13 <sup>th</sup> Amendment: Abolition of Slavery.....	3-44
3.8.10 14 <sup>th</sup> Amendment: Citizenship and Equal Protection.....	3-47

1	3.8.11	16th Amendment: Income Taxes .....	3-51
2	3.8.11.1	Purpose: tax nonresident alien INDIVIDUALS without apportionment .....	3-51
3	3.8.11.2	Legislative Intent of the 16 <sup>th</sup> Amendment According to President William H. Taft .....	3-52
4	3.8.11.3	Understanding the 16th Amendment .....	3-61
5	3.8.11.4	History of the 16th Amendment .....	3-63
6	3.8.11.5	Fraud Shown in Passage of 16th Amendment .....	3-64
7	3.8.11.6	What Tax Is Parent To The Income Tax? .....	3-66
8	3.8.11.7	Income Tax DNA - Government Lying, But Not Perjury? .....	3-66
9	3.8.11.8	More Government Lying, Still Not Perjury? .....	3-66
10	3.8.11.9	There Can Be No Unapportioned Direct Tax .....	3-66
11	3.8.11.10	The Four Constitutional Taxes .....	3-67
12	3.8.11.11	Oh, What Tangled Webs We Weave.....	3-67
13	3.8.11.12	Enabling Clauses .....	3-67
14	3.8.12	Additional research facts on documentation relating to the ratification of the Sixteenth	
15		Amendment.....	3-67
16	<b>3.9</b>	<b>U.S. Code (U.S.C.) Title 26: Internal Revenue Code (IRC) .....</b>	<b>3-68</b>
17	3.9.1	“Words of Art”: Lawyer Deception Using Definitions .....	3-69
18	3.9.1.1	“citizen” (undefined) .....	3-77
19	3.9.1.2	“Compliance” (undefined).....	3-78
20	3.9.1.3	“Domestic corporation” (in 26 U.S.C. §7701(a)(4)).....	3-78
21	3.9.1.4	"Employee" (in 26 U.S.C. §3401 (c)) .....	3-79
22	3.9.1.5	"Employer" (in 26 U.S.C. §3401 (d)) .....	3-80
23	3.9.1.6	“Foreign corporation” (in 26 U.S.C. §7701 (a)(5)).....	3-80
24	3.9.1.7	"Gross Income" (26 U.S.C. §61) .....	3-80
25	3.9.1.8	"Includes" and "Including" (26 U.S.C. §7701 (c)).....	3-83
26	3.9.1.9	“Income” (not defined).....	3-85
27	3.9.1.10	"Individual" (26 C.F.R. §1.1441-1(c)(3)) .....	3-86
28	3.9.1.11	“Levy” (in 26 U.S.C. §7701 (a)(21)) .....	3-90
29	3.9.1.12	“Liable” (undefined) .....	3-91
30	3.9.1.13	"Must" means "May" .....	3-91
31	3.9.1.14	“Nonresident alien” (in 26 U.S.C. §7701 (b)(1)(B)).....	3-92
32	3.9.1.15	"Person" (in 26 U.S.C. §7701 (a)(1)).....	3-93
33	3.9.1.16	“Personal services” (not defined).....	3-95
34	3.9.1.17	“Required” (not defined) .....	3-96
35	3.9.1.18	"resident" (in 26 U.S.C. §7701(b)(1)(A)) .....	3-97
36	3.9.1.19	"Shall" actually means "May" .....	3-98
37	3.9.1.20	"State" (in 26 U.S.C. §7701 (a)(10)).....	3-100
38	3.9.1.21	“Tax” (not defined).....	3-101
39	3.9.1.22	"Taxpayer" (in 26 U.S.C. §7701 (a)(14)).....	3-101
40	3.9.1.23	“Trade or business” (in 26 U.S.C. §7701 (a)(26)) .....	3-102
41	3.9.1.24	"United States" (in 26 U.S.C. §7701 (a)(9)) .....	3-102
42	3.9.1.25	"U.S. Citizen" (26 U.S.C. §3121(e)).....	3-103
43	3.9.1.26	“Voluntary” (undefined).....	3-105
44	3.9.1.27	"Wages" (in 26 U.S.C. §3401 (a)) .....	3-105
45	3.9.1.28	"Withholding agent" (in 26 U.S.C. §7701 (a)(16)).....	3-108
46	3.9.2	26 U.S.C. §1: Tax Imposed.....	3-108
47	3.9.3	26 U.S.C. §61: Gross Income .....	3-109
48	3.9.4	26 U.S.C. §63: Taxable income defined.....	3-109
49	3.9.5	26 U.S.C. §861: Source Rules and Other Rules Relating to FOREIGN INCOME ....	3-110
50	3.9.6	26 U.S.C. §871: Tax on nonresident alien individuals .....	3-113
51	3.9.7	26 U.S.C. §872: Gross income .....	3-114
52	3.9.8	26 U.S.C. §3405: Employer withholding.....	3-114
53	3.9.9	26 U.S.C. §6702: Frivolous Income Tax Return .....	3-114
54	3.9.10	26 U.S.C. §7201: Attempt to evade or defeat tax .....	3-115
55	3.9.11	26 U.S.C. §7203: Willful failure to file return, supply information, or pay tax .....	3-115

1	3.9.12	26 U.S.C. §7206: Fraud and false statements .....	3-117
2	<b>3.10</b>	<b>U.S. Code Title 18: Crimes and Criminal Procedure .....</b>	<b>3-118</b>
3	3.10.1	18 U.S.C. 6002-6003 .....	3-118
4	<b>3.11</b>	<b>U.S. Code Title 5, Sections 551 through 559: Administrative Procedures Act.....</b>	<b>3-119</b>
5	<b>3.12</b>	<b>Code of Federal Regulations (C.F.R.) Title 26 .....</b>	<b>3-119</b>
6	3.12.1	How to Read the Income Tax Regulations .....	3-122
7	3.12.2	Types of Federal Tax Regulations .....	3-123
8	3.12.2.1	Treasury Regulations .....	3-123
9	3.12.2.2	"Legislative" and "Interpretive" Regulations.....	3-124
10	3.12.2.3	Procedural Regulations.....	3-124
11	3.12.3	You Cannot Be Prosecuted for Violating an Act Unless You Violate Its Implementing Regulations .....	3-125
12	3.12.4	Regulations cannot exceed the scope of the statute they are based on .....	3-129
13	3.12.5	Part 1, Subchapter N of the 26 Code of Federal Regulations .....	3-129
14	3.12.6	26 C.F.R. §1.861-8(a): Taxable Income .....	3-134
15	3.12.7	26 C.F.R. §1.861-8T(d)(2)(ii)(A): Exempt income .....	3-134
16	3.12.8	26 C.F.R. §1.861-8T(d)(2)(iii): Income Not Exempt from Taxation .....	3-134
17	3.12.9	26 C.F.R. §1.861-8(f)1 Taxable sources.....	3-135
18	3.12.10	26 C.F.R. §1.863-1: Determination of Taxable Income .....	3-138
19	3.12.11	26 C.F.R. § 1.6661-6 (b): Waiver of Penalty.....	3-138
20	3.12.12	26 C.F.R. §31: Employment Taxes and Collection of Income Taxes at the Source...	3-139
21	3.12.13	26 C.F.R. §31.3401(c)-1: Employee.....	3-143
22			
23	<b>3.13</b>	<b>Treasury Decisions and Orders .....</b>	<b>3-143</b>
24	3.13.1	Treasury Delegation of Authority Order 150-37: Always Question Authority!.....	3-143
25	3.13.2	Treasury Decision Number 2313: March 21, 1916 .....	3-145
26	<b>3.14</b>	<b>supreme Court Cases Related To Income Taxes in the United States .....</b>	<b>3-146</b>
27	3.14.1	1818: U.S. v. Bevens, 16 U.S. 336 .....	3-149
28	3.14.2	1883: Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 .....	3-150
29	3.14.3	1894: Caha v. United States, 152 U.S. 211.....	3-150
30	3.14.4	1895: Pollock v. Farmer's Loan and Trust Company, 157 U.S. 429, 158 U.S. 601 ...	3-150
31	3.14.5	1900: Knowlton v. Moore, 178 U.S. 41.....	3-152
32	3.14.6	1901: Downes v. Bidwell, 182 U.S. 244.....	3-152
33	3.14.7	1906: Hale v. Henkel, 201 U.S. 43 .....	3-153
34	3.14.8	1911: Flint v. Stone Tracy Co., 220 U.S. 107.....	3-153
35	3.14.9	1914: Weeks v. U.S., 232 U.S. 383.....	3-154
36	3.14.10	1916: Brushaber vs. Union Pacific Railroad, 240 U.S. 1.....	3-155
37	3.14.11	1916: Stanton v. Baltic Mining, 240 U.S. 103.....	3-159
38	3.14.12	1918: Peck v. Lowe, 247 U.S. 165 .....	3-159
39	3.14.13	1920: Evans v. Gore, 253 U.S. 245.....	3-160
40	3.14.14	1920: Eisner v. Macomber, 252 U.S. 189.....	3-160
41	3.14.15	1922: Bailey v. Drexel Furniture Co., 259 U.S. 20 .....	3-161
42	3.14.16	1924: Cook v. Tait, 265 U.S. 47 .....	3-161
43	3.14.17	1930: Lucas v. Earl, 281 U.S. 111 .....	3-161
44	3.14.18	1935: Railroad Retirement Board v. Alton Railroad Company, 295 U.S. 330.....	3-162
45	3.14.19	1938: Hassett v. Welch, 303 U.S. 303 .....	3-162
46	3.14.20	1945: Hooven & Allison Co. v. Evatt, 324 U.S. 652.....	3-162
47	3.14.21	1960: Flora v. U.S., 362 U.S. 145.....	3-163
48	3.14.22	1960: U.S. v. Mersky, 361 U.S. 431 .....	3-163
49	3.14.23	1961: James v. United States, 366 U.S. 213, p. 213, 6 L.Ed.2d. 246 .....	3-163
50	3.14.24	1970: Brady v. U.S., 397 U.S. 742 at 748.....	3-164

1	3.14.25	1974: California Bankers Association v. Shultz, 416 U.S. 25 .....	3-164
2	3.14.26	1976: Garner v. U.S., 424 U.S. 648 .....	3-164
3	3.14.27	1976: Fisher v. United States, 425 U.S. 391 .....	3-165
4	3.14.28	1978: Central Illinois Public Service Co. v. United States, 435 U.S. 21 .....	3-166
5	3.14.29	1985: U.S. v. Doe, 465 U.S. 605.....	3-166
6	3.14.30	1991: Cheek v. United States, 498 U.S. 192.....	3-166
7	3.14.31	1992: United States v. Burke, 504 U.S. 229, 119 L.Ed.2d. 34, 112 S Ct. 1867 .....	3-167
8	3.14.32	1995: U.S. v. Lopez, 514 U.S. 549 .....	3-167

### 3.15 Federal District/Circuit Court Cases ..... 3-169

9	3.15.1	Commercial League Assoc. v. The People, 90 Ill. 166.....	3-169
10	3.15.2	Jack Cole Co. v. Alfred McFarland, Sup.Ct. Tenn 337 S.W.2d. 453 .....	3-169
11	3.15.3	1916: Edwards v. Keith, 231 F 110, 113 .....	3-169
12	3.15.4	1925: Sims v. Ahrens, 271 S.W. 720.....	3-169
13	3.15.5	1937: Stapler v. U.S., 21 F.Supp. AT 737 .....	3-169
14	3.15.6	1937: White Packing Co. v. Robertson, 89 F.2d. 775, 779 the 4th Circuit Court .....	3-169
15	3.15.7	1939: Graves v. People of State of New York, 306 S.Ct. 466.....	3-169
16	3.15.8	1943: Helvering v. Edison Brothers' Stores, 8 Cir. 133 F.2d. 575.....	3-170
17	3.15.9	1946: Lauderdale Cemetery Assoc. v. Mathews, 345 PA 239, 47 A. 2d 277, 280.....	3-170
18	3.15.10	1947: McCutchin v. Commissioner of IRS, 159 F.2d. 472 5th Cir. 02/07/1947 .....	3-170
19	3.15.11	1952: Anderson Oldsmobile , Inc. v. Hofferbert, 102 F.Supp. 902.....	3-170
20	3.15.12	1955: Oliver v. Halstead, 196 Va. 992, 86 S.E.2d. 858 .....	3-170
21	3.15.13	1958: Lyddon Co. vs. U.S. , 158 Fed. Supp 951 .....	3-170
22	3.15.14	1960: Commissioner of IRS v. Duberstein, 80 S.Ct. 1190 .....	3-170
23	3.15.15	1962: Simmons v. United States, 303 F.2d. 160.....	3-171
24	3.15.16	1969: Conner v. U.S., 303 F.Supp. 1187 .....	3-172
25	3.15.17	1986: U.S. v. Stahl, 792 F.2d. 1438.....	3-172

### 3.16 IRS Publications and Internal Revenue Manual (IRM)..... 3-172

### 3.17 Topical Legal Discussions..... 3-178

26	3.17.1	Uncertainty of the Federal Tax Codes .....	3-178
27	3.17.2	Reasonable Cause .....	3-185
28	3.17.3	The Collective Entity Rule .....	3-185
29	3.17.3.1	Origins of the Collective Entity Rule.....	3-185
30	3.17.3.2	Extensions to the Collective Entity Rule .....	3-186
31	3.17.3.3	Legal Fiction.....	3-186
32	3.17.3.4	Your Fall.....	3-187
33	3.17.4	The President's Role In Income Taxation .....	3-188
34	3.17.5	A Historical Perspective on Income Taxes .....	3-188
35			
36			
37			
38			
39			

1 "Bad laws are the worst sort of tyranny."  
2 [Edmund Burke]

3 "Whoever therefore breaks one of the least of these commandments, and teaches men so, shall be called least in  
4 the kingdom of heaven; but whosoever does and teaches them, he shall be called great in the kingdom of heaven."  
5 [Matt. 5:19, Bible]

6 "When words lose their meaning, people will lose their liberty."  
7 [Confucius, 500 B.C.]

8 "Good law makes good neighbors."  
9 [James Dobson]

10 "99 percent of lawyers give the rest a bad name."  
11 [Steven Wright]

12 "99 percent of IRS agents give the rest a bad name."  
13 [Family Guardian Fellowship]

14 "75 to 90 percent of American Trial Lawyers are incompetent, dishonest, or both"  
15 [Chief Justice Warren Burger, U.S. Supreme Court]

16 "He who covers his sins will not prosper, but whoever confesses and forsakes them will have mercy."  
17 [Prov. 28:13. This means the Congress and IRS ought to confess the fraud they have foisted upon us and come  
18 clean, because they will be cursed if they don't]

19 "**Woe to you lawyers! for you have taken away the keys of knowledge; you**  
20 **did not enter yourselves, and you hindered those who were entering.**" [Luke  
21 11:52. Woe unto lawyers who write a law to deliberately be confusing or who use or interpret a law that is  
22 written in a confusing way to hide the truth or deceive people for their own selfish gain]

23 "For the wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, **who**  
24 **suppress the truth in unrighteousness.**"  
25 [Romans 1:18. Anyone in politics or in the IRS who suppresses the truths in this book from the general population,  
26 and maintains "plausible deniability" for their own self-protection, will be cursed by God]

27 "**Woe to those who decree unrighteous decrees [judges and lawyers], who**  
28 **write misfortune, which they have prescribed to rob the needy of justice,**  
29 **and to take what is right from the poor of My people.** That widows may be their prey,  
30 and that they may rob the fatherless. What will you do in the day of punishment, and in the desolation which will  
31 come from afar? To whom will you flee for help? And where will you leave your glory? Without Me they shall  
32 bow down among the prisoners, and they shall fall among the slain. For all this His anger is not turned away,  
33 but His hand is stretched out still."  
34 [Isaiah 10:1-4. All the judges in Tax Court and Federal District Court who handle income tax cases against  
35 taxpayers who don't really owe tax will end up in desolation among prisoners and will fall among the slain  
36 eventually]

37 "**But in accordance with your hardness and your impenitent heart you are**  
38 **treasuring up for yourself wrath in the day of wrath and revelation of the**  
39 **righteous judgment of God,** who will render to each one according to his deeds: eternal life to  
40 those who by patient continuance in doing good seek for glory, honor, and immortality; **but to those who**  
41 **are self-seeking and do not obey the truth, but obey unrighteousness--**  
42 **indignation and wrath, tribulation and anguish, on every soul of man who**  
43 **does evil, of the Jew first and also of the Greek;** but glory, honor, and peace to everyone  
44 who works what is good, to the Jew first and also to the Greek." [Romans 2:5-10. Self-seeking government  
45 bureaucrats who write crafty tax laws that conceal the real truth will incur the wrath and indignation of God and  
46 suffer anguish and tribulation eventually]

47 "There's no way to rule innocent men. The only power any government has is the power to crack down on  
48 criminals. Well, when there aren't enough criminals, one makes them. One declares so many things to be a crime  
49 that it becomes impossible to live without breaking laws."

1 [Ayn Rand, in her book *Atlas Shrugged*]

2 "The most sacred of the duties of a government [is] to do equal and impartial justice to all its citizens."  
3 [Thomas Jefferson: Note in Destutt de Tracy, "Political Economy," 1816. ME 14:465]

4 "Therefore by the deeds of the law no flesh will be justified in His sight, for by the law is the knowledge of sin."  
5 [Romans 3:20, Bible, NKJV]

6 "The less people know about how sausages and laws are made, the better they'll sleep at night."  
7 [Otto Von Bismarck]

8 This chapter concerns itself with the legal foundation and authority for income taxes in the United States. By "United States",  
9 we mean federal territories and possessions and federal areas within the exterior limits of states of the Union and intend to  
10 exclude from the definition states of the Union. As you will learn in Chapter 5 later, the U.S. government has no power of  
11 income taxation under Subtitle A of the Internal Revenue Code on land that is not federal territory within the exterior limits  
12 of a state of the Union.

13 The sections in this chapter are organized in precedence order, whereby laws listed first have a higher statutory authority than  
14 laws listed last. For instance, the U.S. Constitution appears first because it supersedes the U.S. Code, which in turn supersedes  
15 the C.F.R.'s that are listed after that. Laws with a higher precedence or authority overrule or supersede laws with a lower  
16 authority where there are conflicts in terms and definitions or the application of the law. All courts are very aware of this  
17 fact in making their rulings. As you read the law, keep in mind the following words of wisdom:

18 *The big print giveth...*

19 *And the small print taketh away.*

20 *Therefore, read the small print FIRST!*

21 What is the big print? It's the Internal Revenue Code (I.R.C.), also known as 26 U.S.C. What is the small print? It's the  
22 implementing regulations found in 26 C.F.R. Most of the secrets the IRS doesn't want you to know about are buried deep in  
23 the disorganized and confusing regulations that they hope you will never read, and as we say in section 3.12.2 entitled "You  
24 Cannot Be Prosecuted for Violating an Act Unless You Violate Its Implementing Regulations", the regulations are the only  
25 thing the courts can enforce anyway, and not the statutes found in the I.R.C. One of our astute readers described this situation  
26 quite insightfully when he said:

27 "They point what you think is a loaded and lethal gun in your face that is represented by the U.S. Codes and  
28 Internal Revenue Code, and try to terrorize and coerce you into 'volunteering' into their jurisdiction by signing  
29 a fraudulent 1040 form that basically says that you are 'an elected or appointed political officer living in the  
30 District of Columbia'. But they don't even have the decency or the integrity to dare tell their ignorant victims  
31 that the gun isn't loaded, because the bullets represented by the insipid regulations are 'blanks' that clearly show  
32 that the IRS and the Department of the Treasury have **no lawful authority** to levy income taxes on private  
33 American citizens residing in nonfederal areas of the sovereign 50 state, and that the Department of Justice has  
34 no authority to prosecute Subtitle A tax crimes in these areas either! The IRS also unscrupulously won't tell you  
35 that their convincing fraud of a gun is really a plastic squirtgun that won't even accept bullets because the U.S.  
36 federal courts have **no jurisdiction** to enforce Subtitle A income taxes inside the nonfederal areas of the 50 Union  
37 states against private state Citizens, but do you think they tell them that? Instead, the courts commit fraud and  
38 extortion at the urging of the IRS by literally lynching anyone stupid enough not to challenge their jurisdiction so  
39 they can make an example out of them to scare the rest of the other sheep into fearful and ignorant submission  
40 and victimization. Then if the victim criminally prosecutes the IRS for illegally being robbed, by them, the robber  
41 claims that their victim 'volunteered' and denies any wrongdoing with impunity because of 'official immunity'!  
42 The courts assist the criminal IRS with perpetrating this fraud by preventing the aggrieved citizens from talking  
43 in court about the very laws that they as "public servants" are sworn to support and defend! How can you  
44 support and defend [their oath of office says 'I solemnly swear that I will support and defend the Constitution of  
45 the United States against all enemies, foreign and domestic, so help me God!'] something you refuse to talk about  
46 in front of juries? Hogwash!!"

### 3.1 Quotes from Thomas Jefferson on the Foundations of Law and Government

1 Thomas Jefferson was the wise and brilliant man who wrote our Declaration of Independence. Below are some of the  
2 fascinating things that he had to say about the foundations of the laws upon which our country is based.

3 *"Common sense [is] the foundation of all authorities, of the laws themselves, and of their construction."*  
4 *[Thomas Jefferson: Batture at New Orleans, 1812. ME 18:92]*

5 *"It was understood to be a rule of law that where the words of a statute admit of two constructions, the one just*  
6 *and the other unjust, the former is to be given them."*  
7 *[Thomas Jefferson to Isaac McPherson, 1813. ME 13:326]*

8 *"Law is often but the tyrant's will, and always so when it violates the right of an individual."*  
9 *[Thomas Jefferson to Isaac H. Tiffany, 1819]*

10 *"The laws of the land are the inheritance and the right of every man before whatever tribunal he is brought."*  
11 *[Thomas Jefferson: Notes on Stevens Case, 1804. ME 17:396]*

12 *"The sword of the law should never fall but on those whose guilt is so apparent as to be pronounced by their*  
13 *friends as well as foes."*  
14 *[Thomas Jefferson to Mrs. Sarah Mease, 1801. FE 8:35]*

15 *"While the laws shall be obeyed, all will be safe. He alone is your enemy who disobeys them."*  
16 *[Thomas Jefferson: Misc. Notes, 1801?. FE 8:1]*

17 *"On every unauthoritative exercise of power by the legislature must the people rise in rebellion or their silence*  
18 *be construed into a surrender of that power to them? If so, how many rebellions should we have had already?"*  
19 *[Thomas Jefferson: Notes on Virginia Q.XIII, 1782. ME 2:171]*

20 *"The [legislature's] laws have always some rational object in view; and are so to be construed as to produce*  
21 *order and justice."*  
22 *[Thomas Jefferson: Batture at New Orleans, 1812. ME 18:122]*

23 *"It is not honorable to take a mere legal advantage, when it happens to be contrary to justice."*  
24 *[Thomas Jefferson: Opinion on Debts due to Soldiers, 1790. ME 3:25]*

25 *"The general rule, in the construction of instruments, [is] to leave no words merely useless, for which any rational*  
26 *meaning can be found."*  
27 *[Thomas Jefferson: Opinion on the Tonnage Payable, 1791. ME 3:290]*

28 *"Where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy."*  
29 *[Thomas Jefferson: Draft Kentucky Resolutions, 1798. ME 17:386]*

### 30 **3.2 Biblical Law: The Foundation of ALL Law**

31 *"But if you are led by the Spirit, you are not under the law."*  
32 *[Gal. 5:18, Bible, NKJV]*

33 *"...the law is not made for a righteous person, but for the lawless and insubordinate, for the ungodly and for*  
34 *sinner, for the unholy and profane, for murderers of fathers and murderers of mothers, for manslayers, for*  
35 *fornicators, for sodomites, for kidnappers, for liars, for perjurers, and if there is any other thing that is contrary*  
36 *to sound doctrine, according to the glorious gospel of the blessed God which has committed to my trust."*  
37 *[1 Tim. 1:9-11, Bible, NKJV]*

38 The essence of law can be distilled down to its most basic spiritual concepts: covenants. All law is a covenant or contract of  
39 some kind. The following hierarchical list helps to illustrate the basic purposes of law, both from a spiritual as well as legal  
40 perspective. The word "covenant", as used in the list below, is the equivalent of "contract" in the legal field:

- 41 1. God's Sovereign Creation as Sovereign Creator (Genesis 1)
- 42 2. Rights and privileges of being a created being (Genesis 2)
- 43 3. The right to contract/covenant with God and man in marriage and work (Genesis 2).
- 44 4. Duties and responsibilities and liabilities of covenants.
- 45 5. Consequences of breaking covenants and remedies (Genesis 3)
- 46 6. Common law duties toward our fellow man (Genesis 4)
- 47 7. Judgment and punishment for breaking covenants (Genesis 4-8)

1 8. Government as a covenant and duty to protect life (Genesis 9), reward good and punish the bad (I Pet. 2).

2 9. Citizenship as a covenant

3 The New Testament boils down the above list to an even simpler basis for all law as follow:

4 **James 2:8:** “If ye fulfill the royal law according to the scripture, Thou shalt love thy neighbor as thyself, ye do  
5 well.”

6 **Matthew 7:12:** “Therefore all things whatsoever ye would that men should do to you, do ye also to them: this is  
7 the law.”

8 **Matthew 22:36-40:** (36) “Master, which is the greatest commandment in the law? (37) Jesus said to him, Thou  
9 shalt love the Lord thy God with all thy heart, and with all thy soul and with all thy mind [See. Exodus 20:3-11].  
10 (38) This is the first and great commandment. (39) And the second is like unto it, Though shalt love thy  
11 neighbor as thyself. (40) On these two commandments hang all law...”

12 Essentially, all law is classified into one of two categories: Our vertical relationship with our God and our horizontal  
13 relationship with our neighbor. The second commandment above to love our neighbor derives from the last six  
14 commandments of the Ten Commandments found in [Exodus 20:12-17](#), which describe for us HOW to love our neighbor:

15 12 Honor your father and your mother, that your days may be long upon the land which the Lord your God is  
16 giving you.

17 13 You shall not murder.

18 14 You shall not commit adultery.

19 15 You shall not steal.

20 16 You shall not bear false witness against your neighbor.

21 17 You shall not covet your neighbor's house; you shall not covet your neighbor's wife, nor his male servant, nor  
22 is female servant, nor his ox, nor his donkey, nor anything that is your neighbor's.

23 The government's moral authority to pass laws therefore derives directly and exclusively from God's commandments, which  
24 are found in the Ten Commandments in the Bible: loving our neighbor and protecting him from harm. God is our one and  
25 only Lawgiver:

26 “For the Lord is our Judge, the Lord is our Lawgiver, The Lord is our King; He will save [and protect] us.”  
27 [Isaiah 33:22, Bible, NKJV]

28 The Ten Commandments are a treaty or covenant between us and our God. In it, God delegated authority and sovereignty to  
29 us to rule ourselves, provided that we obey His laws. God told us very succinctly in the Ten Commandments, which are His  
30 Divine Law, how to love our neighbor. Any violation of these commandments or the covenant they embody is considered  
31 “sin” in a Christian sense. All sin is a violation of our covenant with God documented in the Bible. Likewise, in the context  
32 of human government, the foundation of all criminal laws and the existence of the District Attorney is a fulfillment of the  
33 second of the two great commandments to love our neighbor by keeping us from hurting each other. Anything that violates  
34 these six commandments above relating to human relationships in most good human governments is considered a crime.  
35 Unfortunately, when human governments make law, they always take out the main spiritual motivation behind them, which  
36 is love, and leave behind only naked force and coercion. Law is force, as you will see in the next section, but most  
37 governments don't publish along with their laws the way in which we are loving our neighbor or protecting him from harm  
38 by following the law. In most cases, they leave it up to you to answer that question and in many cases, the answer isn't  
39 obvious at all.

40 Now let's apply what we have learned in a practical sense. How can we know whether man's law conflicts with God's law  
41 and what should we do if it does? As we clearly explain later in section 4.4.11, when man's law conflicts with God's law,  
42 then God's law MUST prevail. This is a logical consequence of both Natural Law, which we describe later in section 3.4  
43 and Natural Order, which we describe later in section 4.1. Below are some questions you should ask yourself based on this  
44 section, to determine whether man's law conflicts with God's law:

1. Does this law interfere with my ability to worship my God? (the first of the two great commandments)
2. Does this law cause me to commit idolatry by putting government higher than God?
3. Does this law cause me to sin against my neighbor based on the biblical definition of sin? Does it force me to do something that is sinful, or prevent me from doing something the bible says I should do?
4. Will following this law not demonstrate love and compassion for my fellow man? For instance, would the law cause innocent unborn children to be responsible for debts that were incurred during our lifetime, resulting in financial slavery?

If the answer to any of the above questions is YES, then you shouldn't follow the law and should do everything you can to defeat, eliminate, and undermine that law. Here are just a few examples of how to effectively resist and undermine and protest an unjust law:

1. Picket it.
2. Refuse to subsidize the enforcement of it with our tax dollars by terminating our status as a "taxpayer".
3. Run for political office and eliminate it once elected.
4. Write our Congressman to complain about it.
5. Vote against it in the ballot box.
6. If the law comes in front of a jury that we are sitting on, we should vote against enforcing it.

We can't put it any simpler than that.

### 3.3 Law is a Delegation of authority from the true sovereign: The People

What is the purpose of law? First, let's define it:

***Law.** That which is laid down, ordained, or established. A rule or method according to which phenomenon or actions co-exist or follow each other. Law, in its generic sense, is a body of rules of action or conduct prescribed by controlling authority [the "sovereign"], and having binding legal force. United States Fidelity and Guaranty Co. v. Guenther, 281 U.S. 34, 50 S.Ct. 165, 74 L.Ed. 683. That which must be obeyed and followed by citizens subject to sanctions or legal consequences is a law. Law is a solemn expression of the will of the supreme [sovereign] power of the State. Calif. Civil Code, §22.*

*The "law" of a state is to be found in its statutory and constitutional enactments, as interpreted by its courts, and, in absence of statute law, in rulings of its courts. Dauer's Estate v. Zabel, 9 Mich.App. 176, 156 N.W.2d. 34, 37. [Black's Law Dictionary, Sixth Edition, p. 884]*

In other words, the "sovereign" within any nation or state is the ruler of that state and makes all the rules and laws with the explicit intention to provide the most complete protection for his, her, or their rights to life, liberty, and property. Different political systems have different sovereigns. In England, which is a monarchy, the sovereign is the King so all laws are enacted by Parliament by or through his delegated authority. In America, the "sovereign" is the People both individually and collectively, "We the People", who created government to protect their collective and individual rights to life, liberty and property. Here is how the Supreme Court describes it:

*"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts."*  
*[Yick Wo v. Hopkins, 118 U.S. 356; 6 S.Ct. 1064 (1886)]*

Because the People in America are the sovereigns, because we are all equal under the law, and because we have no kings or rulers above us, and because all people have a natural, God given, inviolable right to contract, then the Constitution was used as the vehicle by which the people got together to exercise their sovereignty and power to contract in order to delegate very limited and specific authority to the federal government. Any act done and any law passed by the federal government which is not authorized by the Constitution is unlawful, because not authorized by the written contract called the Constitution that is the source of ALL of their delegated authority. Again, here is how the Supreme Court describes our system of government, which it says is based on "compact":

*"In Europe, the executive is synonymous with the sovereign power of a state...where it is too commonly acquired by force or fraud, or both...In America, however the case is widely different. Our government is founded upon compact [consent expressed in a written contract called a Constitution or in positive law]. Sovereignty was, and is, in the people."*  
*[Glass v. The Sloop Betsey, 3 (U.S.) Dall 6]*

Below is the legal definition of “compact” to prove our point that the Constitution and all federal law written in furtherance of it are indeed a “contract”:

*“Compact, n. An agreement or contract between persons, nations, or states. Commonly applied to working agreements between and among states concerning matters of mutual concern. A contract between parties, which creates obligations and rights capable of being enforced and contemplated as such between the parties, in their distinct and independent characters. A mutual consent of parties concerned respecting some property or right that is the object of the stipulation, or something that is to be done or forborne. See also Compact clause; Confederacy; Interstate compact; Treaty.”*  
*[Black’s Law Dictionary, Sixth Edition, p. 281]*

Enacting a mutual agreement into positive law and which takes the form of a Constitution, then, becomes the vehicle for proving the fact that the People collectively agreed and directly consented to allow the government to pass laws that will protect their rights. When our federal government then passes laws or “acts”, the Congressional Record becomes the legal evidence or proof of all of the elected representatives who consented to the agreement. Since we sent these representatives to Washington D.C. to represent our interests, then the result is that we indirectly consented to allow them to bind us to any new agreements or contracts (called statutes) written in furtherance of our interests. If the statute or law passed by Congress will have an adverse impact on our rights, it can then be said that indirectly we consented or agreed to any adverse impact, because the majority voted in favor of their elected representatives.

Public servants then, are just the apparatus or tool or machinery that the sovereign People use for protecting their life, liberty, and property and thereby governing themselves. It is ironic that the most important single force that law is there to protect from is disobedient public servants who want to usurp authority from the people. Our federal government essentially is structured as an independent contractor to the sovereign states, and the contract is the Constitution. The Contract delegated authority or jurisdiction only over foreign affairs and foreign commerce. There are a few very minor exceptions to this general rule which we will discuss subsequently. As the definition above shows, the apparatus and machinery of government is simply the “rudder” that steers the ship, but the Captain of the ship is the People individually and collectively. In a true Republican Form of Government, the REAL government is the people individually and collectively, and not their public servants.

Law is therefore the contractual method used by the sovereign for delegating his authority to those under him and for governing and ruling the nation. Frederick Bastiat in his book *The Law*, further helps us define and understand the purpose of law:

*We must remember that law is force, and that, consequently, the proper functions of the law cannot lawfully extend beyond the proper functions of force. When law and force keep a person within the bounds of justice, they impose nothing but a mere negation. They oblige him only to abstain from harming others. They violate neither his personality, his liberty nor his property. They safeguard all of these. They are defensive; they defend equally the rights of all.<sup>22</sup>*

So we can see that law is force and that it must apply equally to all if liberty is to be protected. If it applies unequally to one class of persons over another, then it turns from being an instrument of liberty to an instrument of oppression and tyranny.

Many people think the purpose of law is to promote public policy. According to Bastiat, the purpose of law is to remedy injustice after it occurs, and there is a world of difference between these two opposing views. The law, in fact, is only there for public protection, but NOT for public advocacy of what some bureaucrat “thinks” would be good. Law is a negative concept and not a positive concept. Law is there to prevent harm, not to encourage or mandate good. Even the Bible agrees with this conclusion, where the Apostle Paul says:

*For the commandments, “You shall not commit adultery,” “You shall not murder,” “You shall not steal,” “You shall not bear false witness,” “You shall not covet,” and if there is any other commandment, are all summed up in this saying, namely, “You shall love your neighbor as yourself.”*

*Love does no harm to a neighbor; therefore love is the fulfillment of the law.*  
*[Romans 13:9-10, Bible, NKJV]*

*“Do not strive with a man without cause, if he has done you no harm.”*  
*[Prov. 3:30, Bible, NKJV]*

<sup>22</sup> *The Law*, Frederick Bastiat, 1850.

Our interpretation of what the above scriptures are saying is that you should not confront, interfere with, strive, or oppose a man unless he has done you some personal harm or is about to cause you harm and you want to prevent it. Your legal rights define and circumscribe the boundary over which he cannot cross without doing you harm. The act of him doing you harm is referred to as “evil”. The law is the vehicle for rebuking and correcting the evil and harm under such circumstances and that is its **only** legitimate purpose. As we made plain in the introduction to Chapter 1, Christians are commanded in Eccl. 12:13-14 to “fear the Lord”, and “fearing the Lord” is defined in Prov. 8:13 as “hating evil”, which means eliminating and opposing it at every opportunity. The process of acquiring knowledge about what is evil and hating evil is called “morality”, and it is the purpose of parenting and every good government to develop and encourage morality in everyone in society.

Consequently, the purpose of the law from a spiritual and legal perspective is only to **prevent harm**, and **NOT** to promote good. Here is another excerpt from Bastiat’s book, *The Law*, that explains this assertion:

*Law Is a Negative Concept*

*The harmlessness of the mission performed by law and lawful defense is self-evident; the usefulness is obvious; and the legitimacy cannot be disputed.*

*As a friend of mine once remarked, this negative concept of law is so true that the statement, the purpose of the law is to cause justice to reign, is not a rigorously accurate statement. It ought to be stated that **the purpose of the law is to prevent injustice from reigning**. In fact, it is injustice, instead of justice, that has an existence of its own. Justice is achieved only when injustice is absent.*

**But when the law, by means of its necessary agent, force, imposes upon men a regulation of labor, a method or a subject of education, a religious faith or creed - then the law is no longer negative; it acts positively upon people. It substitutes the will of the legislator for their own initiatives. When this happens, the people no longer need to discuss, to compare, to plan ahead; the law does all this for them. Intelligence becomes a useless prop for the people; they cease to be men; they lose their personality, their liberty, their property.**

*Try to imagine a regulation of labor imposed by force that is not a violation of liberty; a transfer of wealth imposed by force that is not a violation of property. If you cannot reconcile these contradictions, then you must conclude that the law cannot organize labor and industry without organizing injustice.*

Thomas Jefferson, one of our founding fathers, agreed with this philosophy when he said:

*“With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--**a wise and frugal Government, which shall restrain men from injuring one another [prevent injustice, NOT promote justice], shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.**”*

*[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]*

The purpose of the law also *cannot* be to promote charity, because charity and force are incompatible. Promoting charity with the law is promoting INjustice, which cannot be the proper role of law. Law should only be used to prevent injustice. Here is Bastiat’s perspective from *The Law* again:

*The Law and Charity*

*You say: “There are persons who have no money,” and you turn to the law, but the law is not a breast that fills itself with milk. Nor are the lacteal veins of the law supplied with milk from a source outside the society. Nothing can enter the public treasury for the benefit of one citizen or one class unless other citizens and other classes have been forced to send it in. **If every person draws from the treasury the amount that he has put in it, it is true that the law then plunders nobody. But this procedure does nothing for the persons who have no money. It does not promote equality of income. The law can be an instrument of equalization only as it takes from some persons and gives to other persons. When the law does this, it is an instrument of plunder.***

Another word for plunder is *theft*. Whenever the government or the people use the law as an instrument of theft, and the government as a Robinhood, then the purpose of government turns from *preventing injustice* to:

1. Punishing success by making people who work harder and earn more pay a higher percentage of their income in taxes. This discourages a proper work ethic.
2. Robbing the rich to give to those who have the most votes. This causes democracies to devolve into “mobocracies” eventually, as low income persons vote for persons who will rob the rich and give them something for nothing. (We already have this, in that older people vote consistently for politicians who will expand and protect their social security

- benefits, which aren't a trust fund at all, but instead are a Ponzi scheme paid for by younger workers, moving money from hand-to-mouth)."
3. An agent of organized extortion and lawlessness.
  4. A destabilizing force in society that undermines public trust and encourages political apathy (voter participation is the lowest it has been in years.. ever wonder why).

Here is what the Supreme Court had to say about this type of plunder:

*"To lay with one hand the power of government on the property of the citizen, and with the other to bestow it on favored individuals.. is none the less 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."*  
 [Loan Association v. Topeka, 20 Wall. 655 (1874)]

*"A tax, in the general understanding of the term and as used in the constitution, signifies an exaction for the support of the government. **The word [tax] has never thought to connote the expropriation of money from one group for the benefit of another.**"*  
 [U.S. v. Butler, 297 U.S. 1 (1936)]

The U.S. Supreme Court in the landmark case of Pollock v. Farmers' Loan and Trust Co., 157 U.S. 429 (1895) said the following regarding what happens when the government becomes a Robinhood and tries to promote equality of result rather than equality of opportunity. We end up with class warfare in society done using the force of law and a mobocracy mentality:

*"The present **assault upon capital** is but the beginning. **It will be but the stepping stone to others larger and more sweeping.** until our political contest will become war of the poor against the rich; a war of growing intensity and bitterness.*

...

*The legislation, in the discrimination it makes, is class legislation. Whenever a distinction is made in the burdens a law imposes or in the benefits it confers on any citizens by reason of their birth, or wealth, or religion, it is class legislation, and leads inevitably to oppression and abuses, and to general unrest and disturbance in society."*

Routine use of government as a means to plunder and rob from its people through taxation is the foundation of socialism. Socialism, therefore, is a form of institutionalized or organized crime. Socialism is also incompatible with Christianity, as we will discuss subsequently in section 4.4.14. Social Security, Medicare, Unemployment taxes and other government entitlement programs are examples of socialist programs which amount to organized crime to the extent that participation in them is compulsory or mandatory. For all practical purposes in today's society, participation in these programs is mandatory for the average employee. Therefore, our government has become an organized crime ring that can and should be prosecuted under RICO laws ([18 U.S.C. §225](#)) for racketeering and extortion.

### 3.4 Natural Law

*"Men do not make laws. They do but discover them. Laws must be justified by something more than the will of the majority. They must rest on the eternal foundation of righteousness. That state is most fortunate in its form of government which has the aptest instruments for the discovery of law."*  
 [Calvin Coolidge, to the Massachusetts State Senate, January 7, 1914]

Natural law is the origin of the concept and science of justice. It is the source of moral authority from which the government derives its ability to legislate. Bouvier's Law Dictionary (1856) defines Natural Law as follows:

*NATURAL LAW: A rule of conduct arising out of natural relations of human beings, established by the Creator, and existing prior to any positive precept. Webster. The foundation of this law is placed by the best writers in the will of God, discovered by reason, and aided by divine revelation: and its principles, when applicable, apply with equal obligation to individuals and to nations. 1 Kent. Comm. 2, note: Id. 4, note. See Jus Naturale.*

*The rule and dictate of right reason showing the moral deformity of moral necessity there is in any act, according to its suitableness or unsuitableness to a reasonable nature. Tayl. Civil Law, 99.*

*This expression, "natural law," or jus naturale, was largely used in the philosophical speculations of the Roman jurists of the Attonine age, and was intended to denote a system of rules and principles for the guidance of human conduct which, independently of enacted law or of the systems peculiar to any one people, might be discovered by the rational intelligence of man, and would be found to grow out of and conform to his nature, meaning by*

1 that word his whole mental, moral, and physical constitution. The point of departure for this conception was the  
 2 Stoic doctrine of a life ordered "according to nature," which in its turn rested upon the purely suppositious  
 3 existence, in primitive times, of a "state of nature;" that is, a condition of society in which men universally were  
 4 governed solely by a rational and consistent obedience to the needs, impulses, and promptings of their true nature,  
 5 such nature being as yet undefaced by dishonesty, falsehood, or indulgence of the baser passions. See Maine,  
 6 *Anc. Law, 50 et seq.*

7 We understand all laws to be either human or divine, according as they have man or God for their author; and  
 8 divine laws are of two kinds, that is to say: (1) Natural laws; (2) positive or revealed laws. A natural law is  
 9 deemed to be Burlamaqui to be "a rule which so necessarily agrees with the nature and state of man that, without  
 10 observing its maxims, the peace and happiness of society can never be preserved." And he says that these are  
 11 called "natural laws" because a knowledge of them may be attained merely by the light of reason, from the fact  
 12 of their essential agreeableness with the constitution of human nature; while, on the contrary, positive or revealed  
 13 laws are not founded upon the general constitution of human nature, but only upon the will of God; though in  
 14 other respects such law is established upon very good reason, and procures the advantage of those to whom it is  
 15 sent. The ceremonial or political laws of the Jews are of this latter class. *Borden v. State, 11 Ark. 527, 44 Am.*  
 16 *Dec. 217.*  
 17 [*Black's Law Dictionary, 2<sup>nd</sup> Edition, pp. 804-805*]

18 Natural law is necessarily immutable and unchangeable, because it is based on our nature as human beings the way God  
 19 created us, which doesn't change. A legislature can no more pass a law changing natural law than man can renounce or  
 20 violate the law of gravity. Here is the way Lysander Spooner very lucidly explains the concept of natural law:

21 "If there be any such principle as justice, it is, of necessity, a natural principle; and, as such, it is a matter of  
 22 science, to be learned and applied like any other science. And to talk of either adding to, or taking from, it, by  
 23 legislation, is just as false, absurd, and ridiculous as it would be to talk of adding to, or taking away from,  
 24 mathematics, chemistry, or any other science, by legislation.

25 If there be in nature such a principle as justice, nothing can be added to, or taken from, its supreme authority by  
 26 all the legislation of which the entire human race united are capable. And all the attempts of the human race, or  
 27 of any portion of it, to add to, or take from, the supreme authority of justice, in any case whatever, is of no more  
 28 obligation upon any single human being than is the idle wind.

29 If there be such a principle as justice, or natural law, it is the principle, or law, that tells us what rights were  
 30 given to every human being at his birth; what rights are, therefore, inherent in him as a human being, necessarily  
 31 remain with him during life; and, however capable of being trampled upon, are incapable of being blotted out,  
 32 extinguished, annihilated, or separated or eliminated from his nature as a human being, or deprived of their  
 33 inherent authority or obligation.

34 On the other hand, if there be no such principle as justice, or natural law, then every human being came into the  
 35 world utterly destitute of rights; and coming into the world destitute of rights, he must necessarily forever remain  
 36 so. For if no one brings any rights with him into the world, clearly no one can ever have any rights of his own,  
 37 or give any to another. And the consequence would be that mankind could never have any rights; and for them  
 38 to talk of any such things as their rights, would be to talk of things that never had, never will, and never can have  
 39 any existence.

40 If there be such a natural principle as justice, it is necessarily the highest, and consequently the only and  
 41 universal, law for all those to which it is naturally applicable. And, consequently, all human legislation is simply  
 42 and always an assumption of authority and dominion, where no right of authority or dominion exists. It is,  
 43 therefore, simply and always an intrusion, an absurdity, an usurpation and a crime.

44 On the other hand, if there be no such natural principle as justice, there can be no such thing as injustice. If there  
 45 be no such natural principle as honesty, there can be no such thing as dishonesty; and no possible act of either  
 46 force or fraud, committed by one man against the person or property of another, can be said to be unjust or  
 47 dishonest; or be complained of, or prohibited, or punished as such. In short, if there be no such principle as  
 48 justice, there can be no such acts as crimes; and all the professions of governments, so called, that they exist,  
 49 either in whole or in part, for the punishment or prevention of crimes, are professions that they exist for the  
 50 punishment or prevention of what never existed, nor ever can exist. Such professions are therefore confessions  
 51 that, so far as crimes are concerned, governments have no occasion to exist; that there is nothing for them to do,  
 52 and that there is nothing that they can do. They are confessions that the governments exist for the punishment  
 53 and prevention of acts that are, in their nature, simple impossibilities."<sup>23</sup>

54 Natural law is based on three main elements, according to Spooner. Underneath these three main elements, we have assigned  
 55 the Ten Commandments and other moral laws found in the Bible (in Exodus 20) to show you how they relate:

<sup>23</sup> *The Lysander Spooner Reader*, Lysander Spooner, ISBN 0-930073-06-1, 1992, Fox & Wilkes, San Francisco, CA, pp. 16-18.

1. **Live honestly.**
  - 1.1. Tell the truth and do not lie (Exodus 20:16; Exodus 34:6-7; Prov. 19:9).
  - 1.2. Make your actions consistent with your words. Make no promises you can't keep. (integrity, Prov. 28:6).
  - 1.3. Be a good example to others (Matt. 5:16).
2. **Hurt no one.**
  - 2.1. Do not violate the equal rights of others to life, liberty, and the pursuit of happiness (love your neighbor as yourself, Matt. 22:39; don't plot evil Zech. 8:17).
  - 2.2. Don't kill (Exodus 20:13).
  - 2.3. Don't steal (Exodus 20:15).
  - 2.4. Take full and complete responsibility for yourself at all times. Don't expect or require your neighbor to take care of yourself, because this will lead you to steal from your neighbor (1 Tim. 5:8).
  - 2.5. Don't commit adultery (Exodus 20:17).
  - 2.6. Don't lust after property or sex or money (Exodus 20:17; Prov. 15:27).
3. **Give everyone his due.**
  - 3.1. Put God FIRST on your priority list (Exodus 20:3-11)
  - 3.2. Respect authority when it agrees with natural law (1 Peter 2:13-17).
  - 3.3. Honor all your agreements (Num. 30:2).
  - 3.4. Promote justice by rebuking/punishing people who hurt others (Prov. 24:25; Romans 13:4; Psalm 5:5-6).
  - 3.5. Show mercy and help the less-fortunate when they are down (Psalm 89:14-15).

Natural law derives from our conscience, which Christians call the "Holy Spirit". The author who most eloquently described and explained natural law was Lysander Spooner. A favorite book which contains most of his better writings is *The Lysander Spooner Reader*, ISBN 0-930073-06-1, Fox & Wilkes, 938 Howard Street, Ste. 202; San Francisco, CA 94103. The section in that book entitled "Natural Law" beginning on page 11 is most enlightening on the subject of natural law.

Man-made laws which conform to Natural Law are called "malum in se" laws:

*"Malum in se. A wrong in itself; an act or case involving illegality from the very nature of the transaction, upon principles of natural moral, and public law. Grindstaff v. State, 214 Tenn. 58, 377 S.W.2d. 921, 926; State v. Shedoudy, 45 N.M. 516, 118 P.2d. 280, 287. An act is said to be malum in se when it is inherently and essentially evil, that is, immoral in its nature and injurious in its consequences, without any regard to the fact of its being noticed or punished by the law of the state. Such are most or all of the offenses cognizable at common law (without the denouncement of a statute); as murder, larceny, etc. Compare Malum prohibitum"*  
*[Black's Law Dictionary, Sixth Edition, p. 959]*

### 3.5 **The Law of Tyrants**

The antithesis of natural law described above is the Law of Tyrants, which says that:

*"Law emanates from the barrel of my gun. All law is force, and he who can exercise the **most force** will have the only legitimate authority to make de facto law in any society."*

The foundation of the Law of Tyrants is the following:

*"Surely oppression destroys a wise man's reason. "*  
*[Ecclesiastes 7:7, Bible, NKJV]*

Thomas Jefferson described the Law of Tyrants a little differently:

*"Of liberty I would say that, in the whole plenitude of its extent, it is unobstructed action according to our will. But rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add 'within the limits of the law,' because **law is often but the tyrant's will, and always so when it violates the right of an individual.**"*  
*[Thomas Jefferson to Isaac H. Tiffany, 1819. ]*

Of course, we know that the Law of Tyrants is cruel, satanic, evil, and is condemned in the Bible and by most of the world's religions. It is condemned because it is oppressive and because it violates the rights of others. Nevertheless, it thrives in third world countries all over the globe. This law has also demonstrated itself in our own country. For instance:

- 1 • During the Civil War, Abraham Lincoln used force to prevent southern states from seceding from the Union. He  
2 was renounced twice for doing so by the Supreme Court, and yet he ignored the Supreme Court.
- 3 • In 1913, when the Federal Reserve Act and the Sixteenth Amendment was passed. This created a private federal  
4 reserve which loans money to our government at interest. The Sixteenth Amendment creates an income tax to pay  
5 off the debt that is run up by our government, often against the will and wishes of the people. This makes them, in  
6 effect, into slaves and peons to pay off that debt, and they do so at the point of a gun held by the IRS.

7 Those who promote the Law of Tyrants are likely to make tyrannical statements like the following:

8 *“The law is anything that can be boldly asserted and plausibly maintained.”*  
9 *[Michal S. Josephson, Bar Review Course, 1979]*

10 Man-made laws which conform to the law of tyrants are also called “malum prohibitum” laws:

11 *“Malum prohibitum. A wrong prohibited; a thing which is wrong because prohibited; an act which is not*  
12 *inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act*  
13 *involving an illegality resulting from positive law. Compare Malum in se. “*  
14 *[Black’s Law Dictionary, Sixth Edition, p. 960]*

15 In our present day society, “malum prohibitum” laws are most often the product of socialistic, collectivistic, and humanistic  
16 thinking, and they are most often the result of “judge made law” rather than “positive law”. We cover this subject in greater  
17 detail later in sections 4.4.9 and 4.4.10. The tyranny that happens every day in federal courtrooms throughout the United  
18 States of America relating to the illegal mis-enforcement of the Internal Revenue Code is the best possible example of the  
19 Law of Tyrants and of “malum prohibitum laws” in operation.

20 The main goal of this book is to expose the existence of the Law of Tyrants within our own government and to offer solutions  
21 and techniques for eliminating it. We expand upon the Law of Tyrants in section 6.3, where we list the “laws of tyranny”,  
22 which prescribe how tyranny is implemented.

### 23 3.6 Basics of Federal Law

24 The U.S. Constitution is the foundation of all laws in the United States and is the supreme law of the land. It supersedes all  
25 other laws passed by Congress to implement the U.S. Constitution.

26 The laws enacted by Congress through the legislative process are compiled into **statutes** in the 50 “Titles” of the United  
27 States Code. (Each “Title” deals with a category of law, and Title 26 is the federal tax title, often called the “Internal Revenue  
28 Code.”) A federal agency then has the duty (assigned by Congress) to implement and enforce the statutes by writing and  
29 publishing **regulations**, which explain that agency’s interpretation of the statutes, as well as setting the rules which govern  
30 how the agency will enforce the statutes. The regulations, when published in the Federal Register, are the official notice to  
31 the public of what the law requires, and are binding on the federal agencies (including the IRS). These regulations are then  
32 incorporated into the Code of Federal Regulations, or C.F.R. For federal taxes, the Secretary of the Treasury is authorized to  
33 write such regulations.

#### 34 3.6.1 Precedence of law

35 The precedence and hierarchy of law, like the hierarchy of sovereignty described in section 4.1 of the [Great IRS Hoax](#) on  
36 [Natural Order](#), follows the *sequence* that it is *created*.

- 37 1. The [Common Law](#) trumps all statutory law, and is the primary vehicle used for the protection of PRIVATE RIGHTS.  
38 Statutory civil law protects only PUBLIC RIGHTS and all those subject to it are franchisees and public officers within  
39 the government. See:

*Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037*  
DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf>  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>

- 40 2. Where there are conflicts of law, the [U.S. Constitution](#) is the Supreme Law of the Land because it was created *first* by  
41 the sovereign people. It says so right in the document itself.

"**This Constitution**, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, **shall be the supreme Law of the Land**; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding."  
[\[Article VI, United States Constitution \]](#)

3. State law takes precedence over federal statutory law. Only "federal questions" may be entertained in federal court, all of which involve federal property, federal territory, and those domiciled on federal territory. See 28 U.S.C. §1652, Federal Rule of Civil Procedure 17(b).
4. The [Statutes at Large](#) have the next highest precedence, because they are created by Congress from the authority derived from the U.S. Constitution.
5. Next comes the U.S. Code, which implements the Statutes at Large. The U.S. Code is written by the Law Revision Council of the House of Representatives. Some titles are enacted into positive law while others, such as the Internal Revenue Code, Title 26, are not. Titles of the code that are not enacted into positive law are only prima facie evidence of law that can be rebutted using the Statutes At Large from which they are derived. Titles 26, 42, and 50 do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
6. The U.S. Code is interpreted by Executive Branch agencies to formulate proposed regulations, which are then published in the Federal Register under the authority of the [Federal Register Act, 44 U.S.C. Chapter 15](#). Regulations MAY NOT exceed the scope of the statute they implement. See [U.S. v. Calamaro, 354 U.S. 351 \(1957\)](#).
7. The [Code of Federal Regulations \(C.F.R.\)](#) then takes precedence over every [IRS publication](#). The Code of Federal Regulations are written by the particular Executive Branch agency responsible for implementing the statutes in the U.S. Code. IRS publications are not law, do not confer rights, and people who use them as a basis for belief can be fined and sanctioned by the courts. [Click here](#) for more details.

Understanding the above hierarchy is important for two reasons:

1. It is important because statutes by themselves only obligate the government and not the private parties in states of the Union. A statute MUST have BOTH an implementing regulation AND be published in the Federal Register BEFORE it can apply to the general public and NOT just the government. Understanding this fact is CRUCIAL in challenging unlawful or extraterritorial enforcement. This is covered in:

*Federal Enforcement Authority Within States of the Union*, Form #05.032  
<https://sedm.org/Forms/FormIndex.htm>

2. It is important in determining the definitions of terms. Generally, terms used throughout the [C.F.R.](#)'s and [IRS publications](#) are derived from the [U.S. Codes](#), which in turn are derived from the Statutes at Large. Confusing definitions and contexts of statutory terms is the MAIN method for unlawfully enlarging government jurisdiction over private property and private rights as described below:

*Legal Deception, Propaganda, and Fraud*, Form #05.014  
 DIRECT LINK: <https://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf>  
 FORMS PAGE: <https://sedm.org/Forms/FormIndex.htm>

The C.F.R. is intended to administratively implement the statutes found in the U.S. Code and is subordinate to the U.S. Code. That is why it is often called an "implementing regulation" instead of a Public Law. This fact is very important whenever there are disputes of law with the IRS or its agents. Furthermore, all IRS publications must be consistent in their entirety with both the U.S. Code and the C.F.R. Where there are conflicts of law, the Constitution has highest precedence, followed by the Statutes at Large, followed by the U.S. Code that implements the Statutes at Large. The U.S. Code then takes precedence over the C.F.R., which takes precedence over every IRS publication. This is also a very important fact when one considers the definitions of terms. Generally, terms used throughout the C.F.R.'s and IRS publications are derived from the U.S. Codes, which in turn are derived from the Statutes at Large. Federal courts will, upon occasion, hold that regulations which appear in the [Code of Federal Regulations](#) are invalid because they conflict with either the [U.S. Codes](#) or the [Statutes at Large](#) that they derive from.

Below is a tabular summary of what we just explained to help you visualize what we mean. We jumped the gun on a few of the items listed but this provides a good reference and starting point for later sections. The items below are in precedence order, where the lower numbered items appearing first are of higher precedence than later or higher numbered items:

Table 3-1: Precedence of law

Precedence #	Authority	Author	Force of Law? (Yes/No)	Evidentiary weight	Authorities
1	Nature's Law		No		
2	God's Law	God	Yes (for Christians)		
3	Common Law	"We the People"	Yes	Real	
4	U.S. Constitution	"We the People"	Yes	Real	Carter v. Carter Coal Co., <a href="#">298 U.S. 238</a> (1936)
5	State Constitution	"We the People"	Yes	Real	
6	State Statutes	State Congress	Yes	Real	
7	State Regulations	State Agencies	Yes	Real	Carter v. Carter Coal Co., <a href="#">298 U.S. 238</a> (1936)
8	Statutes at Large	Congress	Yes	Real	
9	U.S. Code	Congress	Yes in most cases. See Note 1	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
10	Federal Register (FR)	Federal Executive Agencies	Yes in most but not all cases. See <a href="#">Note 2</a>	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	
11	Code of Federal Regulations (C.F.R.)	Various	Yes in most but not all cases. See Note 2	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes. Regulations MAY NOT exceed the scope of the statute they implement. See <a href="#">U.S. v. Calamaro, 354 U.S. 351</a> (1957)
11.1	26 C.F.R. Part 1: Income taxes	Treasury	Yes	Not evidence	
11.2	26 C.F.R. Part 31: Employment taxes	Treasury	Yes	Not evidence	
11.3	26 C.F.R. Part 301: Secretary of Treas. Regs	Treasury	Yes	Not evidence	1. 26 U.S.C. §7805(a). 2. 5 U.S.C. §553. 3. Rowan Co., Inc. v. U.S., 452 U.S. 247, 101 S.Ct. 2288, 68 L.Ed.2d. 814 (1981)
11.4	26 C.F.R. Part 601: Procedural Regs	IRS	No* See Note 4 below.	Not evidence	1. <a href="#">Einhorn v. Dewitt, 618 F.2d. 347</a> (5th Cir. 06/04/1980) 2. <a href="#">Luhring v. Glotzbach, 304 F.2d. 560</a> (4th Cir. 05/28/1962)
12	Internal Revenue Manual (IRM)	IRS	No* See Note 4 below.	Not evidence	1. <a href="#">U.S. v. Will, 671 F.2d. 963</a> (1982). Also <a href="#">click here</a> 2. <a href="#">Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8.</a>
13	Supreme Court Rulings	Supreme court	Yes	Real	Internal Revenue Manual 4.10.7.2.9.8
14	Circuit Court Rulings	Circuit court	No	Not evidence	Internal Revenue Manual 4.10.7.2.9.8
15	District Court Rulings	District court	No	Not evidence	Internal Revenue Manual 4.10.7.2.9.8
16	IRS Publications	IRS	No	Not evidence	<a href="#">U.S. v. Will, 671 F.2d. 963</a> (1982)
17	Treasury Decisions and Orders	Treasury	No	Not evidence	<a href="#">Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8.</a>
18	IRS Telephone or agent advice	IRS	No	Not evidence	

**NOTES:**

- Only have the force of law if enacted into positive law. The Internal Revenue Code is not enacted into positive law, but is only prima facie evidence of law.
- Only have the force of law if published and promulgated by the Secretary of the Treasury in the Federal Register in accordance with the Administrative Procedures Act, 5 U.S.C. §553. All regulations promulgated in the Federal Register are "legislative regulations".

- 1 3. The federal Statutes at Large are not available online from the government for any year after 1874. Our link above  
 2 to the [Statutes at Large](#) is for the period 1789-1873.
- 3 4. The internal procedures of the federal agency MUST be followed in any agency action that adversely affects the rights  
 4 of individuals. See *Morton v. Ruiz*, shown below. Consequently, all enforcement actions attempted by the IRS must  
 5 be in strict accordance with the Internal Revenue Manual and part 601 of 26 C.F.R., or the revenue agents can be held  
 6 personally liable for deprivations of rights under 42 U.S.C. §1983.

7 *"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This*  
 8 *is so even where the internal procedures are possibly more rigorous than otherwise would be required. Service*  
 9 *v. Dulles, 354 U.S. 363, 388 (1957); Vitarelli v. Seaton, 359 U.S. 535, 539-540 (1959). The BIA, by its Manual,*  
 10 *has declared that all directives that "inform the public of privileges and benefits available" and of "eligibility*  
 11 *requirements" are among those to be published. The requirement that, in order to receive general assistance, an*  
 12 *Indian must reside directly "on" a reservation is clearly an important substantive policy that fits within this class*  
 13 *of directives. Before the BIA may extinguish the entitlement of these otherwise eligible beneficiaries, it must*  
 14 *comply, at a minimum, with its own internal procedures."*  
 15 [*Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974)*]

- 16 5. The IRS [Internal Revenue Manual, in section 4.10.7.2.8](#) indicates that all IRS publications, and by implication all  
 17 their forms as well, "may not be cited to sustain a position". You will note that several documents fall in this category,  
 18 including the IRM itself, IRS publications, and all of their forms.

19 *Internal Revenue Manual*  
 20 [Section 4.10.7.2.8 \(05-14-1999\)](#)  
 21 *IRS Publications*

22 *IRS Publications, issued by the Headquarters Office, explain the law in plain language for taxpayers and their*  
 23 *advisors. They typically highlight changes in the law, provide examples illustrating Service positions, and include*  
 24 *worksheets. Publications are nonbinding on the Service and do not necessarily cover all positions for a given*  
 25 *issue. While a good source of general information, publications should not be cited to sustain a position.*

26 Most of the definitions for income taxes come from [26 U.S.C](#) Sections [3401](#) and [7701](#), to be precise, but guess what, you  
 27 won't find pointers in the C.F.R.'s or IRS publications back to these original and "foundational" definitions in the U.S. Code.  
 28 The terms "[employer](#)" and "employee" have a much more restrictive meaning in [26 U.S.C](#), Secs. [3401](#) and [7701](#) than they do  
 29 in the [C.F.R.](#)'s or the [IRS publications](#). Some definitions, like that for "[withholding agent](#)" only appear in the [26 U.S. Code](#)  
 30 and not in the [26 C.F.R.](#). We assume this is the case in order to make the C.F.R.'s more confusing for [IRS](#) personnel as a way  
 31 to encourage them to misinterpret the tax code in a manner that advantages the government financially. Also, if the IRS  
 32 doesn't define their terms, then the concept of "[willfulness](#)" as it relates to violating Citizen's rights by wrongfully taking  
 33 more taxes than is owed becomes less threatening for IRS agents. They can just "claim ignorance" when prosecuted for  
 34 malfeasance, which is something we citizens could never do as it relates to paying our taxes! This devious tactic is called  
 35 "plausible deniability".

36 If you would like to know where you can view any of the above legal reference resources, [click here to see our Legal Research](#)  
 37 [Resources page](#).

38 If you would like to know more about which of the above sources of law are useful as evidence in a court of law, see the  
 39 article below:

[Reasonable Belief About Income Tax Liability](#), Form #05.007  
<http://sedm.org/Forms/FormIndex.htm>

### 40 **3.6.2 Legal Language: Rules of Statutory Construction**

41 There is no 'interpretation' of law by any court.. including the U.S. Supreme Court. The laws simply mean what they say.  
 42 Below is a group of U.S. Supreme Court cases which prove that the words in the laws indicate that which the law means.  
 43 Also, this can tie into the "void of vagueness" point, as it is then a concrete concept of law that the laws mean exactly what  
 44 they say as this is the federal [standard](#) of statutory construction, and any law which cannot be understood must be void, as  
 45 the law is not communicating a required act or prohibited act.

46 *"For purposes of statutory construction, a statute's subsequent [after enactment] legislative history is an*  
 47 *unreliable guide to legislative intent."*  
 48 [*Chapman v United States, 500 U.S. 114 L.Ed.2d. 524, 111 S.Ct. (1991)*]

1 **"Going behind the plain language of a statute in search of a possibly contrary congressional intent is "a step**  
 2 **to be taken cautiously"** even under the best of circumstances."  
 3 [Piper v. Chris-Craft Industries, Inc., 430 U.S. 1, 26, 51 L.Ed.2d. 124, 97 S.Ct. 926 (1977). (emphasis added)]

4 **"The name given to a congressional enactment by way of designation or description in the act or the report of**  
 5 **the committee accompanying the introduction of the bill into the House of Representatives cannot change the**  
 6 **plain implication of the words of the statute."** (emphasis added)  
 7 [For other cases, see statutes, 154-160, 249-255, 354-372, in Digest Sup.Ct. 1908.]

8 **"...courts do not resort to legislative history to cloud a statutory text that is clear"**  
 9 [Ratzlaf v. United States, 510 U.S. 135, 126 L.Ed.2d. 615 (1994). (emphasis added)]

10 **"The title of a statute and the history leading up to its adoption, as aids to statutory construction, are to be**  
 11 **resorted to only for the purpose of resolving doubts as to the meaning of the words used in the act in case of**  
 12 **ambiguity."**  
 13 [Fairport, P. & E. R. Co. v. Meredith, 292 U.S. 589, p. 589, 78 L. 1434 (1934) (emphasis added)]

14 **"In deciding a question of statutory construction, we begin of course with the language of the statute."**  
 15 [Demarest v. Manspeaker, 498 U.S. 184, 112 L.Ed.2d. 608, 111 S.Ct. 599, (1991) (emphasis added)]

16 **"When the words of a statute are unambiguous, the first canon of statutory construction--that courts must presume**  
 17 **that a legislature says in a statute what it means and means in a statute what it says there--is also the last, and**  
 18 **judicial inquiry is complete."**  
 19 [Connecticut National Bank v. Germain, 503 U.S. 249, 117 L.Ed.2d. 391(1992) (emphasis added)]

20 **"Rules of statutory construction are to be invoked as aids to the ascertainment of the meaning or application of**  
 21 **words otherwise obscure or doubtful. They have no place, as this court has many times held, except in the domain**  
 22 **of ambiguity."**  
 23 [Hamilton v. Rathbone, 175 U.S. 414, 421, 44 L.Ed. 219, 222, 20 Sup.Ct.Rep. 155; United States v. Barnes, 222  
 24 U.S. 513, 518, 519, 56 L.Ed. 291-293, 32 Sup.Ct.Rep. 117. Russell Motor Car Co. v. United States., 261 U.S. 514,  
 25 pp. 517]

26 **"In construing a federal statute, it is presumable that Congress legislates with knowledge of the United States**  
 27 **Supreme Court's basic rules of statutory construction."**  
 28 [McNary v. Haitian Refugee Center, 498 U.S. 479, 112 L.Ed.2d. 1005, 111 S.Ct. 888 (1991) (emphasis added)]

29 **As in all cases involving statutory construction, "our starting point must be the language employed by**  
 30 **Congress,"** Reiter v Sonotone Corp., 442 U.S. 330, 337, 60 L.Ed.2d. 931, 99 S.Ct. 2326 (1979) (emphasis added),  
 31 **and we assume "that the legislative purpose is expressed by the ordinary meaning of the words used."**  
 32 [Richards v. United States, 369 U.S. 1, 9, 7 L.Ed.2d. 492, 82 S.Ct. 585 (1962) (emphasis added)]

33 **Thus "[a]bsent a clearly expressed legislative intention to the contrary, that language must ordinarily be**  
 34 **regarded as conclusive."**  
 35 [Consumer Product Safety Comm'n v GTE Sylvania, Inc., 447 U.S. 102, 108, 64 L.Ed.2d. 766, 100 S.Ct. 2051  
 36 (1980). (remarks of Sen. Dirksen). As Senator (emphasis added)]

37 **"When the terms of a statute are unambiguous, judicial inquiry is complete except in rare and exceptional**  
 38 **circumstances."**  
 39 [Freytag v. Commissioner, 501 U.S. 115 L.Ed.2d. 764, pp. 767 - 9/73]

40 **"In a statutory construction case, the beginning point must be the language of the statute, and when a statute**  
 41 **speaks with clarity to an issue, judicial inquiry into the statute's meaning--in all but the most extraordinary**  
 42 **circumstance--is finished; courts must give effect to the clear meaning of statutes as written."**  
 43 [Estate of Cowart v. Nicklos Drilling Co., 505 U.S. 120 L.Ed.2d. 379, 112 S.Ct. 2589 (1992) (emphasis added)]

44 **"It is not a function of the United States Supreme Court to sit as a super-legislature and create statutory**  
 45 **distinctions where none were intended."**  
 46 [American Tobacco Co. v. Patterson, 456 U.S. 63, 71 L.Ed.2d. 748, 102 S.Ct. 1534 (emphasis added)]

47 **"(T)he court's task is to determine whether the language the legislators actually enacted has a plain,**  
 48 **unambiguous meaning."**  
 49 [Beecham v. United States, 511 U.S. 128 L.Ed.2d. 383 (1994). (emphasis added)]

50 **"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute."**  
 51 [Federal Trade Com. v Simplicity Pattern Co., 360 U.S. 55 (1959), p. 55, (emphasis added)]

"The starting point in any endeavor to construe a Statute is always the words of the Statute itself; unless Congress has clearly indicated that its intentions are contrary to the words it employed in the Statute, this is the ending point of interpretation."

[Fuller v. United States, 615 F.Supp. 1054 (D.C. Cal 1985), West's Key 188 quoting Richards v. United States, 369 U.S. 1, 9, 82 S.Ct. 585, 590, 7 L.Ed.2d. 492 (1962) (emphasis added)]

"The starting point for interpreting a statute is the language of the statute itself; absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive."

[Product Safety Comm'n v. GTE Sylvania, 447 U.S. 102, 64 L.Ed.2d. 766, 100 S.Ct. 2051 (1980) (emphasis added)]

"Words used in the statute are to be given their proper signification and effect."

[Washington Market Co. v. Hoffman, 101 U.S. 112, 115 (1879), 25 L.Ed. 782, 783. (emphasis added)]

"The construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong, especially when Congress has refused to alter the administrative construction, and such deference is particularly appropriate where an agency's interpretation involves issues of considerable public controversy and Congress has not acted to correct any misperception of its statutory objectives."

[CBS, Inc. v. FCC, 453 U.S. 367 (1981), p. 367, 69 L.Ed.2d. 706, p. 709 (emphasis added)]

"We are not at liberty to construe any statute so as to deny effect to any part of its language. It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word. As early as in Bacon's Abridgment, § 2, it was said that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word, shall be superfluous, void, or insignificant.' This rule has been repeated innumerable times."

[Justice Strong, United States v. Lexington Mill & E. Co., 232 U.S. 399, pp. 409. (1914) (emphasis added)]

Judges "are not at liberty to pick and choose among congressional enactments, and when two [or more] statutes are capable of co-existence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective."

[Morton v. Mancari, 417 U.S. 535, 551, 41 L.Ed.2d. 290, 94 S.Ct. 2474 (1974). County of Yakima v Yakima Nation, 502 U.S. 251, 116 L.Ed.2d. 687 (1992) (emphasis added)]

"Keeping in mind the well-settled rule that the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid."

[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904)]

This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " [W]here Congress includes particular language in one section of a statute but omits it in another ...., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." "

[Russello v. United States, 464 U.S. 16, 23, 78 L.Ed.2d. 17, 104 S.Ct. 296 (1983) (citation omitted). Keene Corp. v. United States, 508 U.S. 200, 124 L.Ed.2d. 118, 113 S.Ct. 1993. (emphasis added)]

Remember, we are here to point out that while the law may be obscured by the government, media, lawyers, and those who have a financial interest in fighting government agencies, the law is not really all that complicated. It means exactly what it says. It says the things you really want to hear, if you are either a "U.S. Citizen" or a "national", and it does not need to be changed. It just needs to be implemented as it was written by the Congress and understood by the American public in order to fix the many problems complained about in this book.

Below is a summary of some of the many rules of statutory construction as we understand them from the above cites and other sources, simplified for your reading pleasure:

1. The law should be given its plain meaning wherever possible.
2. Presumption may not be employed in determining the meaning of an ambiguous or uncertain statute. Doing otherwise is a violation of due process and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out.
3. Every word within a statute is there for a purpose and should be given its due significance.
4. All laws are to be interpreted consistent with the legislative intent for which they were originally passed, as revealed in the Congressional Record prior to the passage. The passage of no amount of time can change the original legislative intent of a law.

- 1 5. The proper audience to turn to deduce the meaning of a statute are the persons who are the subject of the law, and not a  
 2 judge. Laws are supposed to be understandable by the common man because the common man is the proper subject of  
 3 most laws. Judges are NOT common men.

4 *"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its*  
 5 *prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that*  
 6 *man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary*  
 7 *intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws*  
 8 *may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to*  
 9 *be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates*  
 10 *basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the*  
 11 *attendant dangers of arbitrary and discriminatory application."*  
 12 *[Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)]*

13 *". . . whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence*  
 14 *in federal courts is that laymen are better than specialists to perform this task."*  
 15 *[United States ex rel. Toth v. Quarles, 350 U.S. 11, 18 (1955)]*

- 16 6. The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is *not* implied or assumed  
 17 by the reader.  
 18 7. The term "includes" is a term of *limitation* and not enlargement. Where it is used, it prescribes all of the things or classes  
 19 of things to which the statute pertains. All other possible objects of the statute are thereby *excluded*, by implication.

20 *"expressio unius, exclusio alterius"—if one or more items is specifically listed, omitted items are purposely*  
 21 *excluded. Becker v. United States, 451 U.S. 1306 (1981)*

- 22 8. Laws that do not specifically identify ALL of the things or classes of things or persons to whom they apply are considered  
 23 "void for vagueness"  
 24 9. When a term is defined within a statute, that definition is provided to *supersede* and not *enlarge* other definitions of the  
 25 word found elsewhere, such as in other Titles or Codes.  
 26 10. Judges may not extend the meaning of words used within a statute, but must resort ONLY to the meaning clearly indicated  
 27 in the law itself.  
 28 11. Citizens [not "taxpayers", but "citizens"] are presumed to be exempt from taxation unless a clear intent to the contrary  
 29 is manifested in a positive law taxing statute.

30 *"In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions by*  
 31 *implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters*  
 32 *not specifically pointed out. In case of doubt they are construed most strongly against the government and in*  
 33 *favor of the citizen."*  
 34 *[Gould v. Gould, 245 U.S. 151, at 153 (1917)]*

- 35 12. When Congress intends, by one of its Acts, to supersede the police powers of a state of the Union, it must do so very  
 36 clearly.

37 *"If Congress is authorized to act in a field, it should manifest its intention clearly. It will not be presumed that a*  
 38 *federal statute was intended to supersede the exercise of the power of the state unless there is a clear*  
 39 *manifestation of intention to do so. The exercise of federal supremacy is not lightly to be presumed."*  
 40 *[Schwartz v. Texas, 344 U.S. 199, 202-203 (1952)]*

41 The two U.S. Supreme Court cases below reveal that the income which is taxed under the Internal Revenue Code must come  
 42 from a "source", as the law means exactly what is said,

43 *"...the Sixteenth Amendment, which grants Congress the power "to lay and collect taxes on incomes, from*  
 44 *whatever source derived..." Helvering v. Clifford, 309 U.S. 331, 334; Douglas v. Willcuts, 296 U.S. 1,9. It has*  
 45 *long been settled that Congress' broad statutory definitions of taxable income were intended "to use the full*  
 46 *measure of taxing power." The Sixteenth Amendment is to be taken as written and is not to be extended beyond*  
 47 *the meaning clearly indicated by the language used." Edwards v. Cuba R. Co. 268 U.S. 628, 631 [From separate*  
 48 *opinion by Whittaker, Black, and Douglas, JJ.](Emphasis added)*  
 49 *[James v. United States, 366 U.S. 213, p. 213, 6 L.Ed.2d. 246 (1961)]*

50 *"Congress' intent through § 61 of the Internal Revenue Code (26 USCS § 61(a))--which provides that gross*  
 51 *income means all income from whatever source derived, subject to only the exclusions specifically enumerated*  
 52 *elsewhere in the Code...and § 61(a)'s statutory precursors..."*  
 53 *[United States v. Burke, 504 U.S. 229, 119 L.Ed.2d. 34, 112 S.Ct. 1867 (1992) (emphasis added)]*

1 Since the laws simply mean what the words in them say, why then is it that lawyers do not know the law as pointed out in  
2 the Bursten case?

3 *"We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law."*  
4 *[Bursten v. U.S., 395 F.2d. 976, 981 (5th Cir., 1968)]*

5 In a "Tax Policy Lecture" before Southern Methodist University, on April 14, 1993, by Shirley D. Peterson, who was the  
6 former head of the Tax Crimes Division at the Department of Justice and former Commissioner of the IRS, stated:

7 *"...Eight decades of amendments and accretions to the Code have produced a virtually impenetrable maze. The*  
8 *rules are unintelligible to most citizens - Including those who hold advanced degrees and Including many who*  
9 *specialize in tax law. The rules are equally mysterious to many government employees who are charged with*  
10 *administering and enforcing the law."*

11 It is also a known fact that the Internal Revenue Code is a very easily misunderstood area of law, even misunderstood by  
12 trained professionals. Judges and lawyers admittedly do not know the tax code.

13 Why is this, when it is so simple to understand? Are people just making excuses, or is an entire industry interested in  
14 maintaining our ignorance of the law? Frankly, it really doesn't matter all that much... what matters is what we do from this  
15 point on... we know what the laws are and how they were meant to be enforced, we have the tools to contact our elected  
16 officials to inform them of our distaste of their 'folding like a cheap camera', they will realize that they must uphold the laws  
17 as written and specified or they are out of office and disgraced! Simple.

### 18 **3.6.3 How Laws Are Made**

19 *"The less people know about how sausages and laws are made, the better they'll sleep at night."*  
20 *[Otto Von Bismarck]*

21 The following process describes how federal laws are made. Understanding this process is extremely important!:

- 22 1. Congress passes a law. It is broken down into sections called STATUTES. There are two types of laws they can pass:
  - 23 1.1. "Public" laws: Apply generally to everyone in the country.
  - 24 1.2. "Private" or "special" laws, which apply to a subset of all persons. For instance, most of the Internal Revenue Code  
25 is private or special law that applies only within the District of Columbia. The only part that is public law is Subtitle  
26 D, which is excise taxes on gasoline.
- 27 2. The Agency that is delegated the power to ENFORCE the STATUTES then drafts IMPLEMENTING (e.g.,  
28 ENFORCEMENT REGULATIONS).
- 29 3. The ENFORCEMENT REGULATIONS are required by law to be published in the FEDERAL REGISTER so those  
30 parties who would be affected by the law can voice objections and ask for changes BEFORE IT GOES INTO EFFECT.
- 31 4. The REGULATIONS must be very SPECIFIC as to who is SUBJECT to the STATUTE.
- 32 5. If the Agency requires information from someone subject to that statute, it MUST have the information gathering form  
33 approved by the Office of Management and Budget (OMB), because of the Paperwork Reduction Act and the Privacy  
34 Act (5 U.S.C. 552).
- 35 6. Once approved, the OMB assigns a control number to THAT PARTICULAR FORM. (No other form will have that  
36 number.)
- 37 7. For reference purposes, there are parallel tables inserted into the Code of Federal Regulations so anyone can see at a  
38 glance:
  - 39 7.1. The STATUTE and the IMPLEMENTING REGULATION FOR THAT STATUTE.
  - 40 7.2. The IMPLEMENTING REGULATION and the OMB NUMBER OF THE APPROVED INFORMATION  
41 GATHERING FORM.
  - 42 7.3. The STATUTE and the SPECIFIC PARTIES FROM WHOM THE STATUTE CAN REQUIRE INFORMATION.

### 43 **3.6.4 Positive Law**

44 There are only two types of governments: government by consent (contract) or government by force/fraud. All governments  
45 that operate by force or fraud rather than consent are terrorist governments. The [Declaration of Independence](#) says that all  
46 just powers of the United States government derive from the consent of the governed.

1                    “That to secure these rights, governments are instituted among men, deriving their just powers from the consent  
2                    of the governed.”  
3                    [*Declaration of Independence*]

4 Absent individual, explicit, and voluntary consent for everything that government does in this country, a law may not  
5 be enforced and may not adversely affect our Constitutional rights to life, liberty or property. In a Republic of free and sovereign  
6 People who have rights, any government that disregards the requirement for consent is essentially acting *unjustly* and  
7 involving itself in organized crime, extortion, and terrorism. A law which is enforceable because the people either  
8 individually or collectively consented explicitly to it is called *positive law*:

9                    “**Positive law.** Law actually and specifically enacted or adopted [consented to] by proper authority for the  
10                    government of an organized jural society. See also Legislation.”  
11                    [*Black’s Law Dictionary, Sixth Edition, p. 1162*]

12 Titles that are enacted into positive law are identified both in 1 U.S.C. §204 and on the House of Representatives Website.

13                    *About the Office and the United States Code*

14                    *The Office of the Law Revision Counsel of the U.S. House of Representatives prepares and publishes the United*  
15                    *States Code pursuant to section 285b of title 2 of the Code. The Code is a consolidation and codification by*  
16                    *subject matter of the general and permanent laws of the United States.*

17                    *The Code does not include regulations issued by executive branch agencies, decisions of the Federal courts,*  
18                    *treaties, or laws enacted by State or local governments. Regulations issued by executive branch agencies are*  
19                    *available in the [Code of Federal Regulations](#). Proposed and recently adopted regulations may be found in the*  
20                    *[Federal Register](#).*

21                    *Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title 1 of the Code,*  
22                    *the text of those titles is legal evidence of the law contained in those titles. The other titles of the Code are prima*  
23                    *facie evidence of the laws contained in those titles. The following titles of the Code have been enacted into positive*  
24                    *law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 44, 46, and 49.*  
25                    [*SOURCE: <http://uscode.house.gov/about/info.shtml>*]

26 The purpose of positive Law Codification is described on the U.S. House of Representatives Website as follows:

27                    *Codification Legislation*  
28                    *Office of the Law Revision Counsel*

29                    *What is Positive Law Codification?*

30                    *Positive law codification is the process of preparing and enacting, one title at a time, a revision and restatement*  
31                    *of the general and permanent laws of the United States.*

32                    *Because many of the general and permanent laws that are required to be incorporated into the United States*  
33                    *Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel of the House of*  
34                    *Representatives has been engaged in a continuing comprehensive project authorized by law to revise and codify,*  
35                    *for enactment into positive law, each title of the Code. When this project is completed, all the titles of the Code*  
36                    *will **be legal evidence** of the general and permanent laws and recourse to the numerous volumes of the **United***  
37                    ***States Statutes at Large** for this purpose will no longer be necessary.*

38                    *Positive law codification bills prepared by the Office do not change the meaning or legal effect of a statute*  
39                    *being revised and restated.* Rather, the purpose is to remove ambiguities, contradictions, and other imperfections  
40                    from the law.  
41                    [*SOURCE: <http://uscode.house.gov/codification/legislation.shtml>*]

42 **3.6.5 Discerning Legislative Intent and Resolving conflicts between the U.S. Code and the Statutes At Large(SAL)**

43 When litigating a federal issue in a federal court, one very important issue is understanding how to determine the validity of  
44 a statute in the U.S. Code for use as “legal evidence”. By “legal evidence”, we really mean “evidence of consent of the  
45 sovereign, who is We the People” as a collective, and acting through their elected representatives.

46                    “*In the United States, sovereignty resides in the people...the Congress cannot invoke sovereign power of the*  
47                    *People to override their will as thus declared.”*  
48                    [*Perry v. U.S., 294 U.S. 330 (1935)*]

1                    “**Sovereignty** itself is, of course, not subject to law, for it **is the author and source of law**...While sovereign  
2 powers are delegated to...the government, **sovereignty itself remains with the people.**”  
3 [Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

4                    “The words ‘people of the United States’ and ‘citizens,’ are synonymous terms, and mean the same thing. They  
5 both describe the political body who, according to our republican institutions, form the sovereignty, and who  
6 hold the power and conduct the government through their representatives. They are what we familiarly call the  
7 ‘sovereign people,’ and every citizen is one of this people, and a constituent member of this sovereignty. ...”  
8 [Boyd v. State of Nebraska, 143 U.S. 135 (1892)]

9 Often, statutes in the U.S. Code are engineered to be deliberately vague in order to allow corrupt legislators in Congress to  
10 stealthily give judges wiggle room to violate the Constitution and the legislative intent and thereby illegally or improperly  
11 administer the statute. This section will provide a starting point for those who wish to verify the legislative intent of a section  
12 of the U.S. Code from the Statutes At Large, and will describe how to reconcile conflicts between the two.

13 All laws enacted by Congress pursuant to the authority delegated to them by the Constitution are published in the Statutes At  
14 Large. After they have been published, the Law Revision Counsel of U.S. House of Representatives examines the new  
15 enactment and adds language to the U.S. Code which reflects the requirement of the new law. The U.S. Code is, in effect, a  
16 representation or rendition of what appears in the Statutes At Large which has been organized by subject in order to make it  
17 easy to find. Each statute in the U.S. Code contains a legislative notes section that points back to the original enactment of  
18 the Statutes At Large from which it derives. This makes the U.S. Code into a convenient place to start when researching any  
19 legal subject, because it points legal researchers back to the enactments in the Statutes At Large from which each section was  
20 derived.

21 The 3 branches of government, Executive, Legislative, and Judicial, are supposed to be designed to promote checks and  
22 balance in fulfillment of the separation of powers doctrine. The legislature can make laws and the judges administer/interpret  
23 those laws. Within the judicial administration of law ONLY 2 things are required.

- 24 1. To make sure the legislative statute passes the constitutional test. Ie: doesn’t violate the constitution(s). This MUST be  
25 done FIRST. Why go to 2 if 1 does not pass the test?
- 26 2. Once 1 above is known then move forward to see if there is in fact, not presumed, and not just prima facie, a violation  
27 of the constitutionally tested and passed statute.

28 The Executive Branch is set up basically to be an overseer ONLY. It cannot pass laws nor can it administer the laws. A big  
29 problem is that people have totally forgotten about the 4<sup>th</sup> Branch of Government. WE THE PEOPLE. If a judge can do and  
30 say as he pleases, make his own laws, etc, then there would be no need at all for a Congress or a JURY. Yes a jury has the  
31 right to judge both the facts and the law itself.

32 The problem with the judiciary and all the ABA’s is that the judiciary is supposed to be independent, and yet if a judge is to  
33 be challenged he goes to a bunch of other lawyers for the complaint to be heard. This, folks is no different than asking the  
34 fox to guard the chicken house or like asking a thief to put in all the burglar alarms across the nation. It just don’t fit. The  
35 INDEPENDENT ones are THE PEOPLE period. The people are the ones who say what goes and what does not go. The  
36 people must reassert their sovereignty over all of the branches of the government by being a check on bad laws and bad  
37 judges.

38 Now for folks that do understand law or can convince an attorney to help, they can have much better possibility for a better  
39 decision IF they know how to have a judge ADMINISTER the law and ONLY administer the law. Most people I know do  
40 not bring forth the congressional intent of a statute to begin with. Then they also neglect to see if: 1. The statute has passed  
41 the constitutional test. and 2. If applicable, see if it even applies and then and ONLY then, get to any possible violation(s) of  
42 a Congressionally intended AND Constitutionally mandated statute. This process should be PARAMOUNT in determining  
43 the validity of anything we hear or read in Court rulings. These simple steps will ensure intent of the legislature, test the  
44 Constitutionality of the statute, prove standing, jurisdiction and venue, and also COMPEL the judge to ONLY administer the  
45 law. Now his opinion is irrelevant because HE HAS FACTS/LEGAL EVIDENCE of the INTENT of the legislature as well  
46 as the, Constitutionality and applicability of the intent as well as, and only now IF there was in fact and not presumed, a  
47 possible violation of the intent of the legislature.

48 Without this being done a judge CAN AND WILL DO AS HE PERSONALLY WISHES and will base the case on the  
49 evidence given at trial which is ONLY prima facie and not LEGAL EVIDENCE, so he does NOT have to administer the law  
50 BECAUSE NO LAW WAS GIVEN TO HIM TO ADMINISTER.

1 There are certain rules for discerning the legislative intent of a code or statute and whether a law is admissible as evidence in  
2 a court trial.

- 3 1. The Statutes At Large is the official source for United States laws. All enactments within the U.S. Code are to be read  
4 in light of the Statutes At Large.

5 *Official source for the United States laws is Statute at Large and United States Code is only prima facie evidence*  
6 *of such laws.*

7 [*Royer's Inc. v. United States (1959, CA3 Pa), 265 F.2d. 615, 59-1 U.S.T.C. 9371, 3 A.F.T.R.2d. 1137]*

8 *Statutes at Large are "legal evidence" of laws contained therein and are accepted as proof of those laws in any*  
9 *court of United States.*

10 [*Bear v. United States (1985, DC Neb) 611 F.Supp. 589]*

- 11 2. Wherever possible, sections from the U.S. Code that are based on enactments from the Statutes At Large should preserve  
12 as much of the original language of the Statutes At Large as possible. The purpose or driving force behind this policy is  
13 to present and preserve federal statutes in their most accurate form.
- 14 3. A statute from the U.S. Code which is enacted into positive law is legal evidence of the law. This is stated in 1 U.S.C.  
15 §204.

16 [TITLE 1 > CHAPTER 3 > § 204](#)

17 [§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of](#)  
18 [Codes and Supplements](#)

19 *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia,*  
20 *and of each State, Territory, or insular possession of the United States—*

21 *(a) United States Code.— The matter set forth in the edition of the Code of Laws of the United States current at*  
22 *any time shall, together with the then current supplement, if any, establish prima facie the laws of the United*  
23 *States, general and permanent in their nature, in force on the day preceding the commencement of the session*  
24 *following the last session the legislation of which is included: Provided, however, **That whenever titles of such***  
25 ***Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein***  
26 ***contained, in all the courts of the United States, the several States, and the Territories and insular possessions***  
27 ***of the United States.***

- 28 4. When a statute from the U.S. Code is not enacted into positive law, it becomes “prima facie evidence of law”, which  
29 means that it is “presumed” to be law unless and until proven otherwise. This is stated in 1 U.S.C. §204 above and in  
30 the cases below.

31 *“Unless Congress affirmatively enacts title of United States Code into law, title is only prima facie” evidence of*  
32 *law.”*

33 [*Preston v. Heckler (1984, CA9 Alaska), 734 F.2d. 1359, 34 CCH EPD 34433, later proceeding (1984, DC*  
34 *Alaska) 596 F.Supp. 1158]*

35 *“Where title has not been enacted into positive law, title is only prima facie or rebuttable evidence of law, and if*  
36 *construction is necessary, recourse may be had to original statutes themselves.”*

37 [*United States v. Zuger (1984, DC Conn) 602 F.Supp. 889, affd without op (1985, CA2 Conn) 755 F.2d. 915, cert*  
38 *den and app dismd (1985), 474 U.S. 805, 88 L.Ed.2d. 32, 106 S.Ct. 38.]*

- 39 5. Even codification into positive law will not give code precedence where there is **conflict** between codification and  
40 Statutes at Large. See: Warner v. Goltra (1934), 293 U.S. 155, 79 L.Ed. 254, 55 S.Ct. 46; Stephan v. United States  
41 (1943), 319 U.S. 423, 87 L.Ed. 1490, 63 S.Ct. 1135; United States v. Welden (1964), 377 U.S. 95, 12 L.Ed.2d. 152, 84  
42 S.Ct. 1082.
- 43 6. When courts wish to interpret the meaning of a section from the U.S. Code that is not enacted into positive law, they  
44 must refer back to the positive law from which the section derived, found in the Statutes At Large. The Statutes At Large  
45 always take precedence over any statute from the U.S. Code that is not enacted into positive law.

46 *“...[T]his codification seems to us, for the reasons set forth in this opinion, to be manifested inconsistent with*  
47 *the Robinson-Patman Act, and in such circumstances Congress has specifically provided that the underlying*  
48 *statute must prevail.”*

49 [*Nashville Milk Co. v. Carnation Co., 355 U.S. 373, 379 78 S.Ct. 352, 356, 2 L.Ed.2d. 340, 345 (US Ill, 1958)]*

1                   *'...The fact that the words of 18 USC 681 have lingered on in the successive editions of the United States Code is*  
 2                   *immaterial. By 1 U.S.C.A. 54(a) the Code establishing 'prima facie' the laws of the United States. But the very*  
 3                   *meaning of 'prima facie' is that the Code cannot prevail over the Statutes at Large when the two are inconsistent."*  
 4                   *[Stephan v United States, 319 U.S. 423, 426, 63 S.Ct. 1135, 1137, 87 L.Ed. 1490, 1491 (U.S.Mich., 1943)]*

5 7. The following cases either expressly hold or support the proposition that when a conflict exists between the Statutes at  
 6 Large (or Revised Statutes) and provisions of a non-positive law title of the United States Code, the provisions of the  
 7 Statutes at Large (or Revised Statutes) prevail:

8 7.1. UNITED STATES SUPREME COURT:

- 9 7.1.1. Warner v. Goltra (1934), 293 U.S. 155, 79 L.Ed. 254, 55 S.Ct. 46;  
 10 7.1.2. Stephan v. United States (1943), 319 U.S. 423, 87 L.Ed. 1490, 63 S.Ct. 1135;  
 11 7.1.3. Nashville Milk Co. v. Carnation Co. (1958), 355 U.S. 373, 2 L.Ed.2d. 340, 78 S.Ct. 352;  
 12 7.1.4. United States v. Welden (1964), 377 U.S. 95, 12 L.Ed.2d. 152, 84 S.Ct. 1082;  
 13 7.1.5. United States v. Neifert-White Co. (1968), 390 U.S. 228, 19 L.Ed.2d. 1061, 88 S.Ct. 959;  
 14 7.1.6. Goldstein v. Cox, 396 U.S. 471, 24 L.Ed.2d. 663, 90 S.Ct. 671 (1970);  
 15 7.1.7. United States v. Bornstein (1976), 423 U.S. 303, 46 L.Ed.2d. 514, 96 S.Ct. 523;  
 16 7.1.8. American Bank & Trust Co. v. Dallas County (1983), 463 U.S. 855, 77 L.Ed.2d. 1072, 103 S.Ct. 3369.

17 7.2. SECOND CIRCUIT:

- 18 7.2.1. Leonardi v. Chase Nat. Bank (1936, CA2 NY), 81 F.2d. 19, cert den 298 U.S. 677, 80 L.Ed. 1398, 56 S.Ct.  
 19 941;  
 20 7.2.2. United States ex rel. Kessler v. Mercur Corp. (1936, CA2 NY), 83 F.2d. 178, cert den 299 U.S. 576, 81  
 21 L.Ed. 424, 57 S.Ct. 40;  
 22 7.2.3. United States v. Zuger (1984, DC Conn) 602 F.Supp. 889, aff'd without op. 755 F.2d. 915, cert den 474 U.S.  
 23 805, 88 L.Ed.2d. 32, 106 S.Ct. 38.

24 7.3. THIRD CIRCUIT:

- 25 7.3.1. Royer's Inc. v. United States (1959, CA3 Pa.), 265 F.2d. 615;  
 26 7.3.2. Crilly v. SEPTA, (1975, CA3 Pa.) 529 F.2d. 1355;  
 27 7.3.3. United States v. Hibbs (1976, ED Pa.), 420 F.Supp. 1365, vacated on other grounds 568 F.2d. 347;  
 28 7.3.4. United States v. Gigli (1984, WD Pa.), 37 BR 939.

29 7.4. FOURTH CIRCUIT:

- 30 7.4.1. United States v. Shively (1936, DC Va.), 15 F.Supp. 107.

31 7.5. FIFTH CIRCUIT:

- 32 7.5.1. Murrell v. Western Union Tel. Co. (1947, CA5 Fla.), 160 F.2d. 787.

33 7.6. SIXTH CIRCUIT:

- 34 7.6.1. Rose v. National Cash Register Corp. (1983, CA6 Mich.), 703 F.2d. 225, cert den 464 U.S. 939, 78 L.Ed.2d.  
 35 317, 104 S.Ct. 352 (1983);  
 36 7.6.2. Marx v. Centran Corp. (1984, CA6 Ohio), 747 F.2d. 1536, cert den 471 U.S. 1125, 86 L.Ed.2d. 273, 105  
 37 S.Ct. 2656 (1985);  
 38 7.6.3. United States ex rel. Boyd v. McMurtry (1933, WD Ky), 5 F.Supp. 515.

39 7.7. SEVENTH CIRCUIT:

- 40 7.7.1. United States v. Vivian (1955, CA7 Ill.), 224 F.2d. 53;  
 41 7.7.2. Lode v. Leonardo (1982, N.D. Ill.), 557 F.Supp. 675;  
 42 7.7.3. Young v. IRS (1984, N.D. Ind.), 596 F.Supp. 141;  
 43 7.7.4. United States v. Burgess (December 1, 1987, N.D. Ill.), 1987 U.S. Dist. LEXIS 11227, 1987 WL 39092.

44 7.8. EIGHTH CIRCUIT:

- 45 7.8.1. United States v. Wodtke (1985, N.D. Iowa), 627 F.Supp. 1034.

46 7.9. NINTH CIRCUIT:

- 47 7.9.1. Preston v. Heckler (1984, CA9 Alaska), 734 F.2d. 1359, 34 CCH EPD P 34433;  
 48 7.9.2. Ryan v. Bilby (1985, CA9 Ariz.), 764 F.2d. 1325;  
 49 7.9.3. Woner v. Lewis (1935, DC Cal.), 13 F.Supp. 45;  
 50 7.9.4. Peart v. The Motor Vessel Bering Explorer (1974, DC Alaska), 373 F.Supp. 927.

51 7.10. DISTRICT OF COLUMBIA CIRCUIT:

- 52 7.10.1. Five Flags Pipe Line Co. v. Department of Transportation (1988, App. DC), 854 F.2d. 1438.

53 7.11. OTHER COURTS:

- 54 7.11.1. American Export Lines, Inc. v. United States (1961, Ct.Cl.), 290 F.2d. 925, 153 Ct.Cl. 201;  
 55 7.11.2. Best Food, Inc. v. United States (1956), 37 Cust. Ct. 1, 147 F.Supp. 749.  
 56 7.11.3. Abell v. United States (1975), 207 Ct.Cl. 207, 518 F.2d. 1369, cert den (1976) 429 U.S. 817, 50 L.Ed.2d.  
 57 76, 97 S.Ct. 59.

8. Most taxing and licensing statutes are “private law” or “special law”, that only applies to specific persons and things and not to everyone individually. The only way a person can become subject to them is by their individual consent in some form. Hence, true judicial power cannot be exercised in their enforcement within any real court and the matter can therefore only be heard in a legislative franchise court not within the judicial branch:

*“Statutes are public or private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.”*

[Ca. Code of Civil Procedure §1898]

*“Moreover, even if the parties were to do what is virtually inconceivable by expressly agreeing that the arbitrator’s award would be binding even if substantially unjust, the agreement would not bind the judiciary. The exercise of judicial power cannot be controlled or compelled by private agreement or stipulation. (See California State Auto. Assn. Inter-Ins. Bureau v. Superior Court (1990) 50 Cal.3d 658, 664 [268 Cal. Rptr. 284, 788 P.2d. 1156]; Clarendon Ltd. v. Nu-West Industries, Inc. (3d Cir.1991) 936 F.2d. 127, 129 [“action by the court can be neither purchased nor parleyed by the parties”].) As the United States Supreme Court has remarked, a court should refuse to be “the abettor of iniquity.” (Precision Co. v. Automotive Co. (1945) 324 U.S. 806, 814 [89 L.Ed. 1381, 1386, 65 S.Ct. 993].)”*

[Moncharsh v. Heily & Blase, 832 P. 2d 899 - Cal: Supreme Court 1992; KENNARD, J. Dissent at 36.]

9. Some sources of the U.S. Code are not admissible, even if enacted into positive law, because they derive from unofficial sources. All official sources must be identified in an enactment of Congress.

[TITLE 1 > CHAPTER 2 > § 113](#)

[§ 113. “Little and Brown’s” edition of laws and treaties; slip laws; Treaties and Other International Acts Series; admissibility in evidence](#)

*The edition of the laws and treaties of the United States, published by Little and Brown, and the publications in slip or pamphlet form of the laws of the United States issued under the authority of the Archivist of the United States, and the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence of the several public and private Acts of Congress, and of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.*

*“The statute is correctly reproduced in the United States Code Annotated. 45 USCA 441(b)(1). The statute is incorrectly reproduced in the United States Service and in the Lexis Code Library.”*

[Springfield Terminal Railway Co. v United Transportation Union. 767 F.Supp. 333, 346 (D Me, 1991), 45 USCA 441(b)(1)]

10. Debates from the Congressional Record concerning the enactment of a proposed law must be used to establish the legislative intent of a law from the Statutes At Large. Courts must interpret laws from the Statutes At Large and the U.S. Code Sections which implement them consistent with the legislative intent. See Kaufman v. Performance Plastering, Inc, No. C049391 (Cal. 3d App Dist. Oct 03, 2005).

This distinction between the *Statutes at Large* and the U.S.C. can be better understood in the context of positive and non-positive law. A non-positive law title of the Code (such as Title 29 -- Labor, for example) consists of *Statutes at Large* which have not been enacted directly to such title, but which have been codified to such title by the *Law Revision Council*. On the other hand, in a positive law title (such as Title 10 -- Armed Forces), *Statutes at Large* have been enacted directly to such title. Because of this distinction, it is not uncommon to find such words as *title* or *Act* appearing in the text of a *Statutes at Large* which have been codified to a non-positive law title of the Code. While such language is preserved in the U.S.C.S., the compilers of the U.S.C. substitute words such as *chapter* or *subchapter*. This substitutionary policy has, on several occasions, resulted in conflict between the U.S.C. and the *Statutes at Large*. For example, in one case it was held that use of the word *Act* in the *Statutes at Large* prevailed over substitution of the word *chapter* by the compilers of the Code (see United States v. Vivian (1955, CA7 Ill.), 224 F.2d. 53, cert den 350 U.S. 953, 100 L.Ed. 830, 76 S.Ct. 340 (1956)).

### 3.7 Declaration of Independence

1 The Declaration of Independence, as the first document of our organic law, presents a spiritual formal statement of the  
 2 relationship between God the Creator, the People and their government. Congress enacted it into law in their very first official  
 3 act in the Statutes at Large, at 1 Stat. 1.

4 People have God given rights and these rights are as permanent and glorious as only God can make them. When government  
 5 stops protecting those rights it is the duty of the people to alter or abolish that government. The purpose of government is to  
 6 protect and secure these Rights. Furthermore, if a form of government becomes destructive of the Rights of the People it is  
 7 the Right of the People to alter or abolish it. The statement of independence that was to announce the opening of formal  
 8 hostilities with the world's greatest military power severed the connection with Great Britain. The Supreme Court has said  
 9 the following about the Declaration of Independence"

10 *"The equal protection demanded by the fourteenth amendment forbids this. No language is more worthy of*  
 11 *frequent and thoughtful consideration than these words of Mr. Justice Matthews, speaking for this court, in Yick*  
 12 *Wo v. Hopkins, [118 U.S. 356, 369](#), 6 S.Sup.Ct. 1064, 1071: 'When we consider the nature and the theory of our*  
 13 *institutions of government, the principles upon which they are supposed to rest, and review the history of their*  
 14 *development, we are constrained to conclude that they do not mean to leave room for the play and action of purely*  
 15 *personal and arbitrary power.' The first official action of this nation declared the foundation of government in*  
 16 *these words: 'We hold these truths to be self-evident, [165 U.S. 150, 160] that all men are created equal, that they*  
 17 *are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit*  
 18 *of happiness.' While such declaration of principles may not have the force of organic law, or be made the basis*  
 19 *of judicial decision as to the limits of right and duty, and while in all cases reference must be had to the organic*  
 20 *law of the nation for such limits, yet the latter is but the body and the letter of which the former is the thought and*  
 21 *the spirit, and it is always safe to read the letter of the constitution in the spirit of the Declaration of Independence.*  
 22 ***No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions***  
 23 ***intended to secure that equality of rights which is the foundation of free government.***  
 24 *[Gulf, C. & S.F.R. Co. v. Ellis, [165 U.S. 150](#) (1897) ]*

### 25 **3.7.1 God Given INALIENABLE Rights**

26 The Declaration of Independence declares that inalienable rights are granted by the Creator, and not from any man, politician,  
 27 judge, or legislative act. The grantor of a right is the only one that can take it away.

28 *"We hold these truths to be self-evident, that **all men are created equal, that they are endowed by their Creator***  
 29 ***with certain unalienable Rights**, that among these are Life, Liberty and the pursuit of Happiness.--That to secure*  
 30 *these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,*  
 31 *- "*  
 32 *[Declaration of Independence]*

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

35 Inalienable PRIVATE Rights of Life, Liberty and the Pursuit of Happiness were obtained directly from God. This is what the  
 36 governments of the thirteen original States were founded to protect and this is what they would continue to do. Governments  
 37 are expendable, but not the People's rights. The king wouldn't secure their God given rights, so the People have the God-  
 38 given right to institute new government. On this subject, Thomas Jefferson, who authored our Declaration of Independence,  
 39 wrote:

40 *"Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the*  
 41 *minds of the people that these liberties are of the gift of God? That they are not to be violated but with His wrath?"*  
 42 *[Thomas Jefferson: Notes on Virginia Q.XVIII, 1782. ME 2:227 ]*

43 Read the first, second and last paragraphs again with these thoughts: all people, including the king, are equal before God, the  
 44 people have all God given rights and governments exist only to preserve the rights of the people or the people will establish  
 45 new government. What you don't find there is also very important. They have no duty or obligation to government. The only  
 46 duty that the People have is to throw off despotic Government. Government only exists to protect the rights of the People.  
 47 Having done that it must leave the People alone. There are a few things the People must do. They owe allegiance and defense  
 48 to each other, which they discharge by their allegiance to the country, and they must sit as sovereigns on juries, when capable,  
 49 to fully preserve their sovereignty.

### 50 **3.7.2 Dysfunctional Government**

You will find in the Declaration of Independence, following the second paragraph, a long list of injuries, including one which imposed, "...Taxes on us without our Consent," the intent of which was, "...the Establishment of an absolute Tyranny over these States", by the King of Great Britain. Taxes have that power when the sovereign is a king. The Declaration of Independence removed the King as sovereign and replaced him with the People. The American Revolution was fought to establish what had already been declared. Despotism, bureaucratic tax agents belittle our claims to be individual sovereign state citizens. That is exactly what we are and the Declaration of Independence proves it.

### 3.7.3 Taxation Without Consent

One of the great usurpations and abuses that was complained of was the imposition of Taxes without consent. That was an acknowledgment that taxation had to meet constitutional criteria and conformance with law. In a free country all taxation is voluntary. In colonial America, income taxes were collected by promise or agreement. Thomas Paine had been such a tax collector in England when he had been employed as an excise officer.

As a consumer you pay taxes you are not fully aware of because the tax is hidden in the cost of goods and services. The payment of indirect taxes is fair because you are always free to buy or not. The People can alter or abolish government. The basic premise in American government is that the People always have the power to change government when it becomes destructive of the Rights of the People. The People can do it on a grand republican scale by electing a brand new House of Representatives every two years. The People speak through their new Congress. The People can also exercise the power of government on an individual basis when they sit on a jury or by simply not buying a taxed commodity when they feel the tax is wrong or just too high. The People can change government by the taxes they pay or refuse to pay. No tax has permitted fewer choices or has caused more problems than the tax called the income tax.

## 3.8 U.S. Constitution

*"The Bible is the bed-rock on which our Republic rests."  
[Andrew Jackson (1767-1845)]*

*"The moral principles and precepts contained in the Scriptures ought to form the basis of all our civil constitutions and laws. All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery, and war, proceed from their despising or neglecting the precepts contained in the Bible."  
[Noah Webster]*

*"Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters."  
[Noah Webster]*

*"We have the Bill of Rights. What we need is a Bill of Responsibilities."  
[Bill Maher, comedian and commentator, 1995]*

The U.S. Constitution is the Supreme law of the land and supersedes all other laws. You can read it for yourself at the following website:

<http://www.access.gpo.gov/congress/senate/constitution/toc.html>

The courts have said the following about laws that conflict with the Constitution:

*"A judge has no more right to disregard the Constitution than a criminal has to violate the law."  
[People ex rel. Sammons v. Snow, 72 A.L.R. 798]*

*"An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."  
[Norton v. Shelby County, 118 U.S. 425 (1885)]*

*"No higher duty, or more solemn responsibility, rest upon this Court than that of translating into living law and maintaining this Constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution-of whatever race, creed of persuasion."  
[Chambers v. Florida, 309 U.S. 227 (1938)]*

*“And the Constitution itself is in every real sense a law—the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. ‘We the People of the United States,’ it says, ‘do ordain and establish this Constitution.’ Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly—‘This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land.’ (Const. art. 6, cl. 2.) The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for adjudication, must apply the supreme law and reject the inferior statute whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, Adkins v. Children’s Hospital, 261 U.S. 525, 544, 43 S.Ct. 394, 24 A.L.R. 1238; but their opinion, or the court’s opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. Schechter Poultry Corp. v. United States, 295 U.S. 495, 549, 550 S., 55 S.Ct. 837, 97 A.L.R. 947.”*  
 [Carter v. Carter Coal Co., 298 U.S. 238 (1936)]

### 3.8.1 Constitutional Government

The People should rule themselves but not as a mob. The Framers of the Constitution did not establish a democracy for they knew that would be a government of many possible tyrants. Ultimately, We the People of the United States established the Constitution for the United States of America and created a republic. That great document is both a limitation and prohibition on the federal government.

### 3.8.2 Enumerated Powers, Four Taxes & Two Rules

The Framers of the Constitution came up with ingenious plans for protecting themselves, their children and us from despotic government and unreasonable taxation. Their plans were simple, effective and they’re still in the Constitution. Government is limited to specific powers and taxation is limited to four taxes imposed using two rules. The federal government is given the exclusive power to tax imports using the two taxes on imports, imposts and duties. Specific activities, commodities, employments, professions and vocations may be taxed by excise. When people or property are taxed, specific amounts are to be apportioned among the States. The federal government was not given the general police power which is what the states use to rule. The states can use the police power to create new excises.

### 3.8.3 Constitutional Taxation Protection

There are three clauses in the Constitution that protect "We the people", from the passage of unfair taxes by Congress. The first one is located at Article I, Section 2, Clause 3. It commands that Representatives and direct taxes are to be apportioned among the several States. This clause is also very important because it is the first place where we’ll see how the text of the original Constitution looks after it has been amended. The original will be marked in some way, usually by an asterisk or by italics and reference will be made to an amendment. Clause 3 was amended by Section 2 of the Fourteenth Amendment. If you look up that section in the Fourteenth Amendment you will see that no change was made in the requirement that direct taxes be apportioned. It is extremely important that only Constitutions which have been printed by the U.S. Government Printing Office be used. This subsection will establish that none of the taxing clauses of the Constitution were changed by the Sixteenth Amendment.

The second clause appears at Article I, Section 8, Clause 1. This clause establishes Congressional power to lay and collect taxes. The clause names "Taxes", which mean direct taxes and the three types of indirect taxes: Duties, Imposts and Excises and requires that they be uniform throughout the United States. Once you go through the entire Chapter 5 of this document, you will see why Chief Justice Melville Fuller said in Pollock v. Farmers’ Loan & Trust Co., 157 U.S. 429 (1895), there are only four taxes.

The third taxing clause appears at Article I, Section 9, Clause 4. It states again, that all direct taxes have to be apportioned among the several states according to the census. Why is it that the founding fathers put so many protections into the

1 constitution to precisely define the extent of authorized federal taxation and require that all direct federal taxes must be done  
2 through apportionment? Here are a few reasons:

3 *“No servant can serve two masters; for either he will hate the one and love the other, or else he will be loyal to*  
4 *the one and despise the other. You cannot serve God and mammon.”*  
5 *[Jesus [God] speaking in the Bible, Luke 16:13, **NOTE:** According to Webster’s dictionary, “mammon” is*  
6 *defined as “material wealth or possessions esp. as having a debasing influence”]*

7 By requiring apportionment when assessing direct federal taxes against people or property in the states, the founders ensured  
8 that the only income taxing authority that individuals were directly accountable to was their state government. The  
9 apportionment requirement also ensured that tax bills, like representation of the people in the states within the House of  
10 Representatives, was proportional to population of each state. The state government then acted as the intermediary for state  
11 Citizens with the federal government, and the federal government’s role was then to handle foreign relations, war, and the  
12 military and to have no police powers, jurisdiction, or authority within the borders of the states. Why?:

- 13 1. They didn’t want TWO masters, both of whom would oppressively tax them.
- 14 2. Their state governments would be closer, more accessible, and more accountable to them than a distant and detached  
15 federal government, and therefore would be less likely to abusively tax them.
- 16 3. They wanted checks and balances in the power structure, where lawyers in their state legislature would keep in check  
17 unethical lawyers in the federal government, so that neither one of the two would gain too much money or too much  
18 power in the event that corruption occurred.

### 19 **3.8.4 Colonial Taxation Light**

20 It is now generally recognized by historians that compared to us the people in the Colonies were not heavily taxed. Taxes,  
21 then, were perceived as a great governmental interference with their lives. The Revolution was fought to be free from taxation  
22 without representation. It is very likely that everyone knew, then, a lot more about taxes than we know today. Back then  
23 property owners absolutely knew that the apportionment process protected them from confiscation by taxation of their  
24 property. We must always remember that our Revolution was a revolt instigated by property owners to protect the freedom  
25 to acquire and protect property.

26 Today, we’re heavily taxed and the people still don’t know the difference. All tax authorities agree that people, through a  
27 capitation tax or property by a property tax are the subjects of direct taxes, and activities, occasions and events are the subjects  
28 of indirect taxes.

### 29 **3.8.5 Taxation Recapitulation**

30 This then, is the taxing scheme devised by the Framers of the Constitution: Congress has exclusive power to impose duties  
31 and imposts on imports. Indirect taxes on harmful or regulated activities can bring in additional steady, regular money. Direct  
32 taxation of people or property is available on an as needed basis but the tax has to be apportioned. Taxes on imports at various  
33 times in the country’s history are sufficient to supply all the revenue needed by the federal government so that the excises on  
34 alcohol and tobacco are lifted. Indirect taxes bring in so much money that direct taxes have only been used infrequently. The  
35 last time was during the Civil War. Indirect taxes are the kind the Citizen can easily live with, because they can be avoided.  
36 In a free country all taxes must be voluntary, in the sense of the Declaration of Independence. Consent to tax is given when  
37 we own real property knowing it will be taxed according to its value. We consent to indirect taxes, when we purchase the  
38 product whose price holds the hidden tax. To avoid the tax just don’t buy the commodity that is the product of the taxed  
39 activity. Don’t smoke tobacco products or drink alcoholic spirits and you won’t have to pay the indirect excise tax hidden in  
40 the purchase price or suffer the ill health they cause.

41 The Framers of the Constitution placed the apportionment requirement in two places of the Constitution. That tells us how  
42 important they felt it was to protect the limitation of direct taxes on real or personal property.

### 43 **3.8.6 Direct vs. Indirect Taxes**

44 Under the Constitution, Congress can impose two-and only two-different classes of taxes-direct taxes and indirect taxes.  
45 Article 1, Section 2, Clause 3 of the Constitution states:

46 *Representatives and direct taxes shall be apportioned among the several States...”.*

1 Article 1, Section 9, Clause 4 states:

2 *"No Capitation or other direct tax shall be laid unless in proportion to the Census or Enumeration herein before*  
3 *directed to be taken."*

4 Americans are a highly mobile society, so some states could lose population over time while other states gained it. That's  
5 why there's a national census every ten years. Not to determine the number of pets, TV sets or bathrooms in your private  
6 residence-to determine both the number of Representatives to be elected from each state and the proportionate share of each  
7 states' direct tax burden, should Congress decide to impose a direct tax.

8 The meaning of direct taxes was alleged by the Supreme Court to not be clearly defined by the framers of the constitution.  
9 Most of the understanding we have of the meaning of "direct taxes" comes from the findings of the Supreme Court in several  
10 of the cases it has heard over the years. Let's look further at a few prominent Supreme Court cases to help define clearly  
11 what a direct tax is. First we will look at the case of *Veazie Bank v. Fenno*, 75 U.S. 533 (1869):

12 *This review shows that personal property, contracts, occupations, and the like, have never been regarded by*  
13 *Congress as proper subjects of direct tax.*

14 ...

15 *It may be rightly affirmed, therefore, that in the practical construction of the Constitution by Congress, direct*  
16 *taxes have been limited to taxes on land and appurtenances, and taxes on polls, or capitation taxes.*

17 From the above discussion, we can see that the definition of "direct tax" has evolved over the years because it was not  
18 adequately defined by the framers of the Constitution, either during the Constitutional convention or in the Constitution itself.  
19 Therefore, it is probably pointless to focus on the "direct tax" issue in your litigation or involvement with the IRS. A more  
20 productive approach for tax honesty advocates is to focus on the limits of the authority of the federal government imposed  
21 by clauses within the Constitution:

- 22 1. Article I, Section 8, Clause 1.
- 23 2. Article I, Section 8, Clause 3.

24 These clauses clearly spell out those "sources" or conditions which may be subject to regulation (and consequently taxation)  
25 by the federal government. They are the subject of the next section.

### 26 **3.8.7 Article I, Section 8, Clauses 1 and 3: The Power to Tax and Regulate Commerce**

27 *Article I, Section 8, Clause 1: "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and*  
28 *Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all*  
29 *Duties, Imposts and Excises shall be uniform throughout the United States; "*

30 This clause serves a two-fold purpose: it is the direct source of the most important powers that the Federal Government  
31 exercises in peacetime, and, except for the due process and equal protection clauses of the Fourteenth Amendment, it is the  
32 most important limitation imposed by the Constitution on the exercise of the U.S. Government's taxing power. The latter,  
33 restrictive operation of the clause was long the more important one from the point of view of the constitutional lawyer. Of  
34 the approximately 1400 cases which reached the Supreme Court under the clause prior to 1900, the overwhelming proportion  
35 stemmed from state legislation. The result was that, generally, the guiding lines in construction of the clause were initially  
36 laid down in the context of curbing state power rather than in that of its operation as a source of national power. The  
37 consequence of this historical progression was that the word "commerce" came to dominate the clause while the word  
38 "regulate" remained in the background. The so-called "constitutional revolution" of the 1930s, however, brought the latter  
39 word to its present prominence.

40 *Article I, Section 8, Clause 3: "To regulate Commerce with foreign Nations, and among the several States, and*  
41 *with the Indian Tribes;"*

42 You will note that the above precludes regulating commerce "within" states, but only "among" or "between" states. In  
43 *Gibbons v. Ogden*, Chief Justice Marshall observed that the phrase "among the several States" was "not one which would  
44 probably have been selected to indicate the completely interior traffic of a state." It must therefore have been selected to  
45 demark "the exclusively internal commerce of a state." While, of course, the phrase "may very properly be restricted to that

commerce which concerns more states than one," it is obvious that "[c]ommerce among the states, cannot stop at the exterior boundary line of each state, but may be introduced into the interior." The Chief Justice then succinctly stated the rule, which, though restricted in some periods, continues to govern the interpretation of the clause. "The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the states generally; but not to those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government." The implication of these conclusions therefore are that the Congress can tax imports into states from outside the country but not exports from states or economic activity within states, as shown by Article 1, Section 9, Clause 5 of the Constitution:

*Article 1, Section 9, Clause 5: No Tax or Duty shall be laid on Articles exported from any State.*

Recognition of an "exclusively internal" commerce of a State, or "intrastate commerce" in today's terms, was at times regarded as setting out an area of state concern that Congress was precluded from reaching. While these cases seemingly visualized Congress' power arising only when there was an actual crossing of state boundaries, this view ignored the Marshall's equation of "intrastate commerce," which "affect[s] other states" or "with which it is necessary to interfere" in order to effectuate congressional power, with those actions that are "purely" interstate. This equation came back into its own, both with the Court's stress on the "current of commerce" bringing each element in the current within Congress' regulatory power, with the emphasis on the interrelationships of industrial production to interstate commerce but especially with the emphasis that even minor transactions have an effect on interstate commerce and that the cumulative effect of many minor transactions with no separate effect on interstate commerce, when they are viewed as a class, may be sufficient to merit congressional regulation. "Commerce among the states must, of necessity, be commerce with[in] the states. . . . The power of congress, then, whatever it may be, must be exercised within the territorial jurisdiction of the several states."

This clause of the constitution is *extremely important*, because it is the source from which the authority for ALL of the U.S. Codes and the C.F.R.'s are derived relative to taxation. It also serves to explain the constraints imposed by the following cites from these statutes and regulations:

1. 26 U.S.C. §861, which limits taxable "sources" to foreign sources and interstate commerce, and not income of citizens from within the 50 Union states.
2. 26 C.F.R. §1.861-8, which limits taxable "sources" to foreign sources, and not income of citizens from within the 50 Union states.
3. 26 C.F.R. §1.863-1, which describes how to compute taxable income form sources within the United States.
4. The definition of "Employee" found in 26 U.S.C. §3401(c). An "employee" within the I.R.C. is someone who works for the federal government, because the U.S. Government has no right to regulate the activities of private companies within a state or individual states!
5. The definition of "Withholding agent" in 26 U.S.C. §7701. This person is responsible under 26 U.S.C. §1441, 1442, 1443, and 1461, to withhold on income of persons from foreign sources.

This clause, therefore, forms the foundation and the bedrock of the ALL of the "source" arguments described throughout this document!

To read more about this fascinating subject, we refer you to the annotated Constitution, which you can read at:

<http://caselaw.lp.findlaw.com/data/constitution/article01/>

### 3.8.8 Bill of Rights

*"The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections for Congressional statutes or laws either, as was the case above!"*  
*[West Virginia State Board of Education v. Barnette, 319 U.S. 624, 63 S.Ct. 1178 (1943)]*

The first ten amendments to the U.S. Constitution are collectively called the Bill of Rights. The Bill of Rights are restraints on the powers of the federal government in relation to citizens in the 50 states of the Union. Until the Fourteenth Amendment

1 was passed, they did not constrain the powers of state governments with respect to their citizens. Up until the passage of the  
2 Fourteenth Amendment, the only constraint on state powers were the Constitutions of each respective state.

3 It is very important to consider where the Bill of Rights apply. Many Americans mistakenly believe that the Bill of Rights  
4 apply everywhere in the United States\* (the country) and are a result of our citizenship. In fact, the Bill of Rights have very  
5 little to do with our citizenship and everything to do with where you live as you will learn in chapter 4. The Bill of Rights  
6 DO NOT, for instance, apply within the federal United States, which we call the “federal zone” throughout this book. This  
7 conclusion is exhaustively explained by the Supreme Court in the case of *Downes v. Bidwell*, 182 U.S. 244 (1901). Below is  
8 a table summarizing where the Bill of Rights apply:  
9

Table 3-2: Constitutional rights throughout the United States\* (country)

#	Type of property	Constitutional Rights	Example	Authorities
1	Territories	No	Puerto Rico, Virgin Islands, American Samoa, etc.	1. <i>Downes v. Bidwell</i> , 182 U.S. 244 (1901); 2. <i>M'Culloch v. Maryland</i> , 4 Wheat. 316, 422, 4 L.Ed. 579, 605, and in <i>United States v. Gratiot</i> , 14 Pet. 526, 10 L.Ed. 573
2	Federal enclaves <i>within</i> states:	NA	NA	NA
2.1	Ceded to federal gov. <u>after</u> joining union	Yes	Federal courthouses	<i>Downes v. Bidwell</i> , 182 U.S. 244 (1901);
2.2	Also enclaves at the time of admission	No	Indian reservations	<i>Downes v. Bidwell</i> , 182 U.S. 244 (1901);
3	Sovereign states	Yes	California, Texas, etc.	<i>Downes v. Bidwell</i> , 182 U.S. 244 (1901);
4	District of Columbia	Yes	District of Columbia	1. <i>Downes v. Bidwell</i> , 182 U.S. 244 (1901). 2. <i>Loughborough v. Blake</i> , 18 U.S. 317, 5 Wheat. 317, 5 L.Ed. 98 (1820)
4	Foreign countries (nations)	No	Japan	1. <i>Downes v. Bidwell</i> , 182 U.S. 244 (1901). 2. <i>Cook v. Tait</i> , 265 U.S. 47 (1924) 3. <i>M'Culloch v. Maryland</i> , 4 Wheat. 316, 422, 4 L.Ed. 579, 605 (1819) 4. <i>United States v. Gratiot</i> , 14 Pet. 526, 10 L.Ed. 573 5. <i>Springville v. Thomas</i> , 166 U.S. 707, 41 L.Ed. 1172, 17 Sup.Ct.Rep. 717 (1897)

***IMPORTANT:*** Those areas listed above where there are no Constitutional rights are the *only* areas where direct income taxes under Subtitle A can be applied to individuals without apportionment and without violating (clauses 1:9:4 and 1:2:3 of) the Constitution. Everyplace else, it isn't a tax, but a *donation*.

The above table is also a consequence of Article 1, Section 8, Clause 17 of the Constitution, which empowers Congress with exclusive legislative and territorial jurisdiction over its property and the people living on it. We cover this matter later in more detail in sections 4.5.3, 4.8, and 6.5.2.

### 3.8.8.1 1<sup>st</sup> Amendment: The Right to Petition the Government for Redress of Grievances

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*  
[First Amendment, Emphasis added]

This amendment is intended to allow ordinary citizens, through the legal and judicial processes in place, to petition the government for redress of their grievances. This includes grievances related to the injustice and unconstitutionality of income taxes as they are currently being enforced by the IRS. As we point out in great detail in section 6.9, there is in reality a “judicial conspiracy” by the federal courts to skirt addressing the unconstitutionality of the income taxes, which directly violates the First Amendment to the Constitution and represents “institutional treason” by the courts. We believe that the origin of this has to do with the fact that federal judges are appointed rather than elected by politicians in the U.S. government. This leads to them wanting to pander to the desires of the federal politicians who appointed them rather than the voters and citizens who they are there to protect and defend. This leads to the conclusion that the separation of powers built into our federal system has not worked, and has been transcended by a conspiracy to extort money out of U.S. citizens in a federal income tax racketeering scheme unprecedented in the history of the world.

The First Amendment involves your freedom to speak to your government. It also includes your right *not* to speak to your government (on a Form 1040). Forcing you to speak on a 1040 would violate your First Amendment rights. The following excerpt from the U.S. supreme Court clearly identifies the intent of the First Amendment.

1                   *"This case involves a cancer in our body politic. It is a measure of the disease which afflicts us. ... Those who*  
 2 *already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. The First*  
 3 *Amendment was designed to allow rebellion to remain as our heritage. The Constitution was designed to keep*  
 4 *the government off the backs of the people. ... The Bill of Rights was designed to keep agents of government and*  
 5 *official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and*  
 6 *to assert their rights against government. ... When an intelligence [or IRS agent] officer looks over every*  
 7 *nonconformist's shoulder... the America once extolled as the voice of liberty heard around the world no longer is*  
 8 *cast in the image which Jefferson and Madison designed, but more in the Russian image..."*  
 9 *[US Supreme Court, Laird v. Tatum, 408 U.S. 1, page 28 additional comments added for emphasis]*

10 Please refer to section 6.9 entitled "Judicial Conspiracy to Protect the Income Tax: The Changing Definition of 'Direct,  
 11 Indirect, and Excise Taxes'" and section 5.12 of the *Tax Fraud Prevention Manual*, Form #06.008 entitled "How the Federal  
 12 Judiciary Stole the Right to Petition" for a more detailed, fascinating, and scholarly treatment of how the First Amendment  
 13 is being violated by the federal courts.

### 14 **3.8.8.2       4th Amendment: Prohibition Against Violation of Privacy and Unreasonable Search and Seizure Without** 15 **Probable Cause**

16                   *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches*  
 17 *and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or*  
 18 *affirmation, and particularly describing the place to be searched, and the persons or things to be seized.*  
 19 *[Fourth Amendment, Emphasis added]*

20 Collection activity of income taxes by the IRS, if it occurs outside of the federal zone, is clearly implemented in a way that  
 21 violates the 4th Amendment. This is because it is quite common for the IRS to unlawfully search and seize property of  
 22 persons who have not paid their taxes without a search warrant. For examples of such abuse, refer to the following website:

23 Violation of Due Process Examples: <http://www.neo-tech.com/irs-class-action/>

### 24 **3.8.8.3       5th Amendment: Self Incrimination and Due Process Rights**

#### 25 **3.8.8.3.1       Introduction**

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

33 Income taxes are clearly illegal from the perspective that compelling people (under threat of penalties and fines if they don't)  
 34 to file 1040 income tax forms each year under penalty of perjury is in effect forcing them to act as a witness against themselves  
 35 and incriminate themselves under penalty of perjury. This finding is in agreement with the U.S. Supreme Court's ruling in  
 36 the case of *Garner v. United States, 424 U.S. 648 (1976)*, in which the court said that tax returns are compelled and constitute  
 37 the testimony of a witness. Income taxes are also unconstitutional because the IRS often takes people's private property  
 38 without due process of law (a court hearing) or just compensation.

#### 39 **3.8.8.3.2       More IRS Double-Speak/Illogic**

40 The IRS, however, often attempts to downplay their routine violation of these rights of the people. Below is the IRS' official  
 41 response, gleaned from one of their pamphlets on tax protesters, that directly addresses the issue of one's right not to  
 42 incriminate oneself:<sup>24</sup>

43                   *Protester Claim: Filing a form 1040 violates the Fifth Amendment right to self-incrimination and the Fourth*  
 44 *Amendment right to privacy.*

<sup>24</sup> From a pamphlet entitled *Illegal Tax Protests: Facts vs. Fiction* by the North Central District of the Internal Revenue Service, Serving Minnesota, North Dakota, and South Dakota.

1 *IRS Official Response: "There is no Constitutional right to refuse to file an income return because of the Fifth*  
 2 *Amendment. The courts have uniformly held that disclosure of the type of routine financial information required*  
 3 *on a tax return does not, in and of itself, incriminate an individual and does not violate either one's Fifth or*  
 4 *Fourth Amendment rights.*  
 5 *[United States v. Neff, United States v. Turk, Hallowell v. Commissioner, Baker v. Commissioner, Brushaber v.*  
 6 *Union Pacific RR]"*

7 The point of the above Alice in Wonderland double-speak is, that the main entities or "persons" (note that corporations and  
 8 partnerships also qualify as "persons") who are liable to file income tax returns have NO constitutionally protected rights  
 9 because they:

- 10 1. Are citizens living overseas or in federal territories and have no constitutional rights per the Supreme Court Case of  
 11 *Downes v. Bidwell*, 182 U.S. 244 (1901) mentioned in section 3.14.6. This includes those living in the in Virgin Islands,  
 12 Puerto Rico, or District of Columbia.
- 13 2. As "legal fictions", they are required to rely on a benefit or privilege bestowed by the government for their existence or  
 14 livelihood. For instance, corporations, trusts, and partnerships must file because they are "creatures or creations of the  
 15 state" who owe their very existence to the state, as described in the U.S. Supreme Court case of *Hale v. Henkel*, 201 U.S.  
 16 43 (1906) appearing in section 3.14.7.

17 For both of these types of "persons", YES, they should rightfully file income tax returns and can be compelled by the  
 18 government to do so, and also fall under the ambit of the 16<sup>th</sup> Amendment.

### 19 **3.8.8.3.3 IRS Fear Tactics to Keep You "Volunteering"**

20 But what about "natural persons" such as you and I? Did you notice that the IRS bubbas didn't remind you that you had a  
 21 right as a natural born Citizen of one of a states within the united States, to refuse to SIGN the returns under penalty of perjury  
 22 because of your Fifth Amendment right to not become a witness against yourself? Interestingly, they didn't mention that  
 23 when you do this, based on their regulations, they in effect pretend like you didn't "file" at all and can prosecute you for  
 24 "willful failure to file" under 26 U.S. Code §7203! There is also \$500 fine for not signing a return or providing a frivolous  
 25 return (called the Jurat amendment). But if non-incrimination is a right, how can they tax or penalize or fine or criminalize  
 26 the exercise of it? **The fact of the matter is that they can't because that would put them at odds with the Constitution!**  
 27 They know that you can't be compelled to sign the return because of your 5<sup>th</sup> Amendment rights, and if you don't sign it, the  
 28 return is worthless in a court of law and doesn't qualify for use as evidence against you, so they scare the hell out of you with  
 29 the "willful failure to file" threat and then out of the other side of their mouth pretend like you "volunteered"! But then if  
 30 you don't sign it, they treat it as a valid return anyway for the purposes of prosecuting you under 26 U.S.C. §6702 for a  
 31 frivolous return (see the case of *Lovell v. United States*, 755 F.2d. 517). Isn't that twisted illogic on their part? Not signing  
 32 the return you are compelled to provide is the only way you can protect your Constitutional right to not incriminate yourself  
 33 as a natural born person, not to mention your loved ones, because your return can be used as evidence against others as well.  
 34 However, if you choose not to sign the return, you need some way to authenticate that it was you who provided it. Therefore,  
 35 we recommend that you file a separate affidavit with it from a notary public proving that you were the one who provided the  
 36 form to the IRS, so they can at least have assurances that you provided the form.

37 Each year the IRS indicts several hundred individuals who have not filed tax returns in order to keep a degree of fear alive in  
 38 the general public and keep them "volunteering". Although the IRS refers to the filing of returns as "voluntary", it has both  
 39 criminal and civil statutory penalties under Subtitle F of the Internal Revenue Code for those individuals who do not  
 40 "volunteer". What the IRS and the government don't tell you is that these statutory penalties have no implementing  
 41 regulations that apply them to the Income tax in Subtitle A! It's all a big bluff. Some people have made an entire profession  
 42 out of pointing this fact out and using it as a very effective administrative defense. Most of the people who are harmed by  
 43 illegal IRS enforcement don't know about the nonexistence of implementing regulations. That is why any challenge or stand  
 44 you make for the truth and the Bill of Rights is serious business, and why you must know what you are doing. You are  
 45 dealing with a corrupt government agency and a major judicial conspiracy to protect the income tax. The actions of both the  
 46 IRS and the courts have the blessing of our elected representatives. That is why this situation can only be changed by the  
 47 people themselves.

### 48 **3.8.8.3.4 Non-Self-Incrimination Right (not PRIVILEGE, but RIGHT) Defined**

Barron's law dictionary explains the application of the 5th amendment quite succinctly, and we repeat it here for your benefit:<sup>25</sup>

*SELF-INCRIMINATION, PRIVILEGE AGAINST:*

*the constitutional right of a person [in this case they mean a natural born person, instead of a "corporation", which is also a "person" from the perspective of the tax code] to refuse to answer questions or otherwise give testimony against himself or herself which will subject him or her to an incrimination. This right under the **Fifth Amendment** (often called simply **PLEADING THE FIFTH AMENDMENT**) is now applicable to the states through the **due process** clause of the **Fourteenth Amendment**, 378 U.S. 1, 8, **and is applicable in any situation, civil or criminal, where the state attempts to compel incriminating testimony**. See 378 U.S. 52, 94. The right may be waived where the defendant testifies, 356 U.S. 148, 157, and the privilege does not preclude the use of voluntary **confessions**, provided that the requirements of the **Miranda rule** have been complied with. 384 U.S. 436, 478.*

*The requisite compulsion will include any threat calculated to interfere with the unfettered free will of the suspect. Thus, the privilege has been held to bar the dismissal of a police officer for refusal to testify regarding matters that might incriminate him or her and for refusal to waive immunity from prosecution if forced to testify. 392 U.S. 273. The testimony could not validly be used, as "the protection of the individual under the Fourteenth Amendment against coerced statements prohibits use in subsequent criminal proceedings of statements obtained under threat of removal from office, and that extends to all, whether they are policemen or members of our body politic. 385 U.S. 493, 500.*

*In general, only criminal sanctions are within privilege and testimony can be compelled despite the personal, social, or economic costs to the witness. For example, a mother having no statutory evidentiary privilege could be compelled to testify against her child and would not be able to plead the privilege against self-incrimination unless she too feared a personal criminal sanction. If she persisted in her refusal to testify, she could be found in contempt*

[...skipped irrelevant sections...]

*The privilege can be displaced by a grant of **TESTIMONIAL [USE] IMMUNITY** which guarantees that neither the compelled testimony nor any fruits will be used against the witness. Given such immunity, the witness can no longer fear incrimination and thus cannot plead the privilege against self-incrimination, 406 U.S. 441; 406 U.S. 472. Some states give such witnesses a broader form of **TRANSACTIONAL IMMUNITY** which protects them not merely from use of their testimony but from any prosecution brought about relating to transactions about which relevant testimony was elicited. see, e.g. N.Y. Crim. Proc. Law §50.10 (McKinney). Transactional immunity was previously the federal standard, 18 U.S.C. §2514, but was replaced in 1970 by testimonial immunity, 18 U.S.C. §6002. Immunity from federal prosecution may only be given by a federal prosecutor, not a judge. As such, a witness may invoke a broad self-incrimination privilege in a civil suit, in which the federal prosecutor is not involved. See 103 S.Ct. 608. Once granted immunity, a witness who refuses to testify can be punished for **contempt**. The privilege against self-incrimination, like all constitutional rights, may be **waived**. **Miranda warnings** are generally necessary before such a waiver will be found to qualify a **confession** as admissible evidence for a criminal trial.*

*The rule does not extend to nontestimonial compulsion. Thus, blood tests may be compelled from the accused because they are "noncommunicative," i.e., the evidence is considered physical or real and not testimonial so as to invoke the protection of the privilege. On the same reasoning, the Court has permitted compelled **line-ups**, 388 U.S. 218, 221, and handwritten exemplars. 388 U.S. 263, 266. [Law Dictionary, Barron's, Copyright 1996; ISBN 0-8120-3096-6, pp. 464-465]*

First of all, you will note that the 5<sup>th</sup> Amendment **right**, is referred to as a "privilege" in the definition above from the legal dictionary. This kind of language is problem #1 with the legal profession as a whole, in that the government, aided and abetted by the legal profession and the American BAR Association, has apparently tried to make the exercise of our **rights** into **privileges** granted by the government, which is socialism, totalitarianism, and tyranny in action.

What the above definition clearly says is that the **rights** (not government-granted **privileges**, but **rights**) guaranteed by the Fifth Amendment involve **both civil and criminal testimony**. This was confirmed by the U.S. Supreme Court as well in *Maness v. Meyers*, 419 U.S. 449, 42 L.Ed.2d. 574, 95 S.Ct. 584 (1975):

<sup>25</sup> *Law Dictionary*, Barron's, Copyright 1996, ISBN 0-8120-3096-6, pp. 464-465.

1           *"In Kastigar v. United States, 406 U.S. 441, 92 S.Ct. 1653, 32 L.Ed.2d. 212 (1972), we recently reaffirmed the*  
 2 *principle that the privilege against self-incrimination can be asserted 'in any proceeding, civil or criminal,*  
 3 *administrative or judicial, investigatory or adjudicatory.' Id., at 444, 92 S.Ct., at 1656; Lefkowitz v. Turley, 414*  
 4 *U.S. 70, 77, 94 S.Ct. 316, 322, 38 L.Ed.2d. 274 (1973); Murphy v. Waterfront Comm'n, 378 U.S. 52, 94; 84 S.Ct.*  
 5 *1594, 1611, 12 L.Ed.2d. 678 (1964)(White, J., concurring); McCarthy v. Arndstein, 266 U.S. 34, 40, 45 S.Ct. 16,*  
 6 *17, 69 L.Ed. 158 (1924); United States v. Saline Bank, 1 Pet. 100, 7 L.Ed. 69 (1828); cf. Gardner v. Broderick,*  
 7 *392 U.S. 273, 88 S.Ct. 1913, 20 L.Ed.2d. 1082 (1968)."*

8           *"The privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully*  
 9 *present, as here, could be penalized for advising his client in good faith to assert it. The assertion of a testimonial*  
 10 *privilege, as of many other rights, often depends upon legal advice from someone who is trained and skilled in*  
 11 *the subject matter, and who may offer a more objective opinion. A layman may not be aware of the precise scope,*  
 12 *the nuances, the boundaries of his Fifth Amendment privilege. It is not a self-executing mechanism; it can be*  
 13 *affirmatively waived, or lost by not asserting it in a timely fashion. If performance of a lawyer's duty to advise a*  
 14 *client that a privilege is available exposes a lawyer to the threat of contempt for giving honest advice it is hardly*  
 15 *debatable that some advocates may lose their zeal for forthrightness and independence."*

16           *"There is a crucial distinction between citing a recalcitrant witness for contempt, United States v. Ryan, supra*  
 17 *[402 U.S. 530; 91 S.Ct. 1580; 29 L.Ed.2d. 85 (1971)], and citing the witness' lawyer for contempt based only on*  
 18 *advice given in good faith to assert the privilege against self-incrimination."*

19 The IRS often tries to trick people into waiving this right and incriminating themselves by saying that "the 5th amendment  
 20 only protects one from criminal prosecution and not civil prosecution", but as we can see from above, this is not true.  
 21 Therefore, testimony cannot be compelled without a deliberate waiver of one's 5th Amendment right.

22 One tactic the IRS and the courts (judicial conspiracy to protect the income tax) have used to undermine the 5<sup>th</sup> Amendment  
 23 protections of "natural persons" is to claim that the 5<sup>th</sup> Amendment only applies to "testimony", and not to writings signed  
 24 under penalty of perjury, such as tax returns. Testimony is defined in a legal dictionary as follows:

25           *"a statement made by a witness under oath, usually related to a legal proceeding or legislative hearing. Evidence*  
 26 *given by a competent witness under oath or affirmation as distinguished from evidence derived from writing and*  
 27 *other sources...Although 'testimony' and 'evidence' are frequently used synonymously, the terms are not*  
 28 *synonymous...Evidence is the broader term and includes all testimony, which is one species of evidence." 470*  
 29 *S.W.2d. 679, 682."*<sup>26</sup>

30 One interesting way of dealing with this type of legal argument and devious maneuvering by the government is to ensure that  
 31 all your tax returns are submitted under oath, which makes them testimony that is immune to use in a court of law under the  
 32 5<sup>th</sup> Amendment. You will note that the statement at the end of the form 1040 does not contain an oath. This is deliberate.  
 33 But you can add one by attaching a statement to your tax return and putting a note on the return saying that it is not valid  
 34 without the attached statement, which has the oath and an affidavit from a notary public. The oath simply needs to state the  
 35 same thing that they ask you to say before you testify in court, and should be notarized for authenticity:

36 ***"I, <<NAME>> do solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help me God."***

37 Barron's legal dictionary defines "oath" as follows:

38           *"swearing to the truth of a statement; if one makes a statement under oath and knows it to be false, one may be*  
 39 *subjected to a prosecution for perjury or other legal proceedings. Writings, (e.g. affidavits) as well as oral*  
 40 *testimony may be made "under oath." Compare affirmation."*<sup>27</sup>

41 You will note that the IRS' argument that a 1040 tax return does not constitute "testimony" because it is not given under oath  
 42 is nonsense, because the statement at the end of the tax return states:

43           *"Under penalties of perjury, I declare that I have examined this return and accompanying schedules and*  
 44 *statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of*  
 45 *preparer (other than taxpayer) is based on all information of which preparer has any knowledge".*

46 The essential feature of an oath is that it is a declaration (statement) given under penalty of perjury. A tax return is simply  
 47 a written record, in effect, of a statement or testimony made by a "natural person" under penalty of perjury. The fact that

<sup>26</sup> *Law Dictionary*, Barron's, Copyright 1996, ISBN 0-8120-3096-6, p. 513.

<sup>27</sup> *Law Dictionary*, Barron's, Copyright 1996, ISBN 0-8120-3096-6, pp. 345-346.

1 penalty of perjury is involved is what gives the tax return the property of being useful as evidence in a court of law, which in  
 2 turn allows it to be used to criminally prosecute the Citizen who signs it. Therefore, once again, the 1040 form clearly violates  
 3 the Fifth Amendment right to not incriminate oneself. Interestingly, the bible emphatically says we should not take oaths!  
 4 Here are the words of Jesus himself on the subject, found in Matt. 5:33-37 (remember, the writer of this passage was Matthew,  
 5 who was formerly a tax collector before he became an apostle!):

6 *"Again you have heard that it was said to those of old, 'You shall not swear falsely, but shall perform your oaths  
 7 to the Lord.'*

8 *"But I say to you, **do not swear at all: neither by heaven, for it is God's throne; 35 nor by the earth, for it is His**  
 9 **footstool; nor by Jerusalem, for it is the city of the great King.***

10 *"Nor shall you swear by your head, because you cannot make one hair white or black.*

11 *"But let your 'Yes' be 'Yes,' and your 'No,' 'No.' For whatever is more than these is from the evil one.  
 12 [Matt. 5:33-37, Bible, NKJV]*

13 One could therefore say that requiring an oath at the bottom of a tax return violates Christian beliefs!

14 The U.S. Supreme Court has repeatedly held that the mandate of the Fifth Amendment, which protects "persons" from  
 15 compulsory self-incrimination, applies only to "natural people" and not to "fictions". Therefore, individuals, trusts, estate,  
 16 partnerships, and association, companies or corporations, limited liability companies and other kinds of business  
 17 organizations recognized by the courts and the government are treated differently from individuals for Fifth Amendment  
 18 purposes. The concept is known as the "Collective Entity Rule." See section 3.17.3 for more information on the Collective  
 19 Entity Rule.

20 Based on the above, you might want to obtain a grant of "TESTIMONIAL IMMUNITY" from the IRS prior to answering  
 21 any of their tax questions about you or signing your tax return, where they agree not to criminally prosecute you (or anyone  
 22 else, for that matter) for anything you put on your tax return or which you testify about relative to the payment of income  
 23 taxes. This kind of immunity can be both requested and granted under [18 U.S.C. Section 6002](#)-6003, as described later in  
 24 section 3.10.1. That is why we refer to the Fifth Amendment issue as an important element in the concept of "voluntary  
 25 compliance" that the IRS likes to obfuscate and confuse people about. However, we'd like to emphasize that Fifth  
 26 Amendment rights *do not* extend to the right not to testify about OTHERS' income tax liabilities or financial information.  
 27 For instance, if you have personal knowledge about someone else's earnings or tax liabilities, you can be compelled to reveal  
 28 that knowledge if it does not incriminate you personally. This might be one very good reason to file separate tax returns,  
 29 even if you are married, and to ensure that your spouse doesn't know what is on the return—so he/she can't be implicated as  
 30 a witness against you. This would apply to employers, for instance, with respect to information about their employees. Under  
 31 these circumstance, these employers can legally and rightfully be held in contempt of court for not providing information  
 32 about their employees. That is why it is best to give your employer as little information about yourself as you can get by  
 33 with.

34 Interestingly enough, if you refuse to file or sign a 1040 form and thereby exercise your Fifth Amendment right to not  
 35 incriminate yourself, then the IRS often illegally files a Substitute for return on your behalf. They exceed their lawful  
 36 authority found in 26 U.S.C. §6201 in doing so, because this section doesn't allow substitute for returns for Subtitle A income  
 37 taxes. If you file without signing, the IRS treats you as though you didn't file at all. But guess what? They don't sign it  
 38 either! The hypocrites don't even follow their own laws unless the laws favor them! Remember that "absolute power corrupts  
 39 absolutely."

#### 40 **3.8.8.3.5 The Privacy Act Notice**

41 Below is an excerpt from the Privacy Act Notice that appears in the 1040 Instruction Booklet:

42 *"We may give the information to the Department of Justice and to other Federal agencies, as provided by law.  
 43 We may also give it to cities, states, the District of Columbia, U.S. Commonwealths or possessions, and certain  
 44 foreign governments to carry out their tax laws.*

45 *If you do not file a return, do not give the information asked for, or give false information, you may be charged  
 46 penalties and you may be subject to criminal prosecution.."*

1 The IRS is very aware of the fact that it has a legal right to use any information provided on a 1040 Form. The IRS is also  
 2 aware that the Privacy Act requires all government agencies to inform the public about the law and to tell the public what the  
 3 agency might do with the information requested, as well as to advise the public of the consequences of disobeying the law.  
 4 That is why the IRS warns us that information on tax returns may be given to the Department of Justice.

5 The IRS goes to great lengths in its Privacy Act Notice to create a confusing situation. After all, the IRS wants you to think  
 6 that you are **required** to file a return. At the same time, the IRS warns you that you are giving it information that it can use  
 7 in a criminal case—yours! The Privacy Act Notice also states that individuals are required to file a return “for any tax for  
 8 which you are liable.” You are referred to I.R.C. Sections 6001, 6002, and 6012.

9 Get a copy of the IRS Code in the law library and read those sections. Chapter 13 also tells where you can buy one. Do you  
 10 see a section anywhere in the Code that makes you liable to file a return? Only a few sections actually come close, but they  
 11 do not actually require you to file the return; the sections simply state that *if you are liable, then you must file*. The reason  
 12 they can’t *require* you to file a return is that then, you could say that you were compelled to testify against yourself!

13 Discuss these sections with your attorney, if you have one. Your attorney will have to conclude that in and of itself, the  
 14 language of these sections does not make you liable to pay an income tax.<sup>28</sup> Your attorney will likely further conclude that  
 15 you are not liable for the tax *unless and until* you *voluntarily* file a return. Such action is what assesses or bills you—by  
 16 signing the bill, you are making a promise to pay. Again, there is no section in the Internal Revenue Code that generally  
 17 makes individuals liable to pay an income tax.

#### 18 **3.8.8.3.6 IRS Deception In The Privacy Act Notice**

19 The Privacy Act Notice by the IRS does not mention that the only purpose of the Department of Justice is to investigate and  
 20 prosecute crimes. If it did so, more folks might pause and ask why the IRS would be alerting them to the possible sharing of  
 21 their individual return information with that prosecutorial agency. This is clearly deceitful. ***The IRS does not really want***  
 22 ***you to know that you are providing information that it can and will use against you.*** However, the IRS knows that it must  
 23 have something in print to point to in the event you later try to claim you were never told that you were waiving your Fifth  
 24 Amendment protections of your rights by “volunteering” the information. Note that the Fifth Amendment states that you  
 25 cannot be compelled to witness against yourself; and note further that the ***Fifth Amendment protections do not apply if you***  
 26 ***can be tricked into voluntarily witnessing against yourself.*** Doesn’t this make you just a teensy bit mad?

27 At the risk of belaboring this point, the IRS would not be required to give the warning that information may be given to the  
 28 Department of Justice *unless* it were allowed to use information on tax returns for criminal cases. So when we read the  
 29 Privacy Act Notice, we should know beyond a doubt that filing returns is indeed “voluntary” because the IRS is warning us  
 30 that it can give the information to the Department of Justice. ***To say it one more time: when you send in a tax return, you***  
 31 ***have been forewarned how the information may be used.*** Since, in spite of that warning, you have voluntarily given the  
 32 information on the return to the government, you cannot later object if the IRS or the Department of Justice later decide to  
 33 use the information against you in a criminal prosecution.

#### 34 **3.8.8.3.7 Jesus’ Approach to the 5<sup>th</sup> Amendment Issue**

35 For Christians, what is the biblical/God-endorsed model for *self-incrimination*? We find this in Mark 15:3-5 in the words  
 36 and actions of Jesus Himself when he was tried before the Chief Priests:

37 *"And the Chief Priests accused Jesus of many things: but he answered them nothing.*

38 *And Pilate asked him again saying, 'Answerest thou nothing?' Behold how many things they witness against*  
 39 *thee. But Jesus yet answered nothing; so Pilate marveled."*

40 *[Mark 15:3-5, Bible, NKJV]*

41 Jesus, at his trial before the Court of Pilate, said nothing. He stood mute. The record shows that this act was so unusual, so  
 42 wise, that the Judge of His case marveled. The Greek word used here is "thaumazo" meaning, by implication, to admire.  
 43 Have you ever wondered about that, this curious marveling by Pilate? ***You see, Jesus refused to testify into Pilate's***  
 44 ***jurisdiction!***

<sup>28</sup> The lawmakers did not simply misspeak here. Contrast these sections with Section 5005, for example, which very clearly specifies that if you distill or import distilled spirits, such action makes you liable for the tax.

1 Yet, there are Christians today, when compelled into court, who seem to be prone to keep talking until by their very words  
 2 there is enough evidence admitted into the record to convict them without any further witnesses. Did you know that 90% of  
 3 all convictions are obtained by admissions and confessions, generally unwittingly, obtained from the defendant himself? It  
 4 is almost an axiom of law that all of the evidence that will ever be used against a defendant will be furnished by the defendant.  
 5 This is why the government and local police investigators do all they can to get you to talk to them about the case, giving  
 6 them your side of the story. Even if you are innocent, it is your words, uttered during the frustration of being incarcerated  
 7 and not knowing what will happen next, that will be pieced together to frame up a case against you. Therefore, when you are  
 8 in custody of the police or federal agents of any kind, do not make any statements or answer any questions, even as to the  
 9 weather or where you live. You are to stand mute, say nothing, and keep your mouth shut on any and all subjects just as  
 10 Jesus did. Do not demand a lawyer or permit yourself to be released on bond, for in so doing you may grant them jurisdiction  
 11 that they might not otherwise have, and thereby forfeit one of your rights under the Common Law.

12 Like Jesus, we should stand mute even though you are threatened with contempt of court or even if you think you can answer  
 13 the questions to your legal advantage. The very first question from the judge that you answer, even to make a plea of "not  
 14 guilty," is an admission that this court has jurisdiction over you. Jurisdiction is a legal point of law that must be determined  
 15 by the court before it can move forward with your case. If that cannot be proven, the case must be dismissed. Therefore,  
 16 why volunteer to prove that point for them by answering questions of the court?

17 Further, if you answer as to how you plead, you not only admit to jurisdiction, but you admit to understanding the charges  
 18 that have been placed against you, and that you are therefore mentally competent to stand trial.

19 Remember the Chief Priests in their black robes are not going to appreciate what I have instructed you in these few paragraphs.  
 20 They want you to make admissions, even that you are not guilty, so that they can establish jurisdiction over your person.  
 21 They want you to volunteer evidence, such as fingerprints and photographs, without counsel of your choice being present.

22 They are professionals at the use of words, fears, anxieties and threats to trick you into giving the admissions and confessions  
 23 they really need to get a conviction. The problem is that you assume that you are innocent until proven guilty or that they will  
 24 accept your simple explanation and drop the whole thing. Don't be so naive or take such a chance with your future. Stand  
 25 mute as Christ taught us and maybe even the court will marvel!

#### 26 **3.8.8.3.8 Conclusion**

27 If you want more interesting reading on the subject of self-incrimination as it pertains to taxes, we refer you to the case of  
 28 *U.S. v. Troescher*, No. 95-55609, a case in which the Ninth Circuit Court of Appeals agreed with Mr. Troescher's Fifth  
 29 Amendment defense against producing books and records, stating clearly that there was no "Tax Crime Exception" to the  
 30 Fifth Amendment -- a severe blow to IRS "tax crime" prosecutions. In support of the notion that there is a judicial conspiracy  
 31 to protect the income tax, the Troescher case was unpublished, because the judge didn't want others to be able to read a  
 32 success story like Mr. Troescher's. Therefore, you will either have to request the copy of the case directly from the Ninth  
 33 Circuit and won't find it in any electronic case database.

34 **WARNING!** *If the IRS comes knocking, and you admit that you have business records, they can legally compel you to*  
 35 *produce them with a subpoena, and the courts will not regard the act of compelling you to produce them as a violation of*  
 36 *your Fifth Amendment rights! See *Fisher v. United States*, 425 U.S. 391 or *U.S. v. Doe*, 465 U.S. 605. If the act of making*  
 37 *or keeping the records in the first place was compelled and you make this clear, then you don't have to give them the records*  
 38 *because this violates the 5<sup>th</sup> Amendment. However, the IRS can't compel you to admit that you have records, and their*  
 39 *subpoena must specifically identify the records that they are requesting. Therefore, we advise NEVER admitting to anyone*  
 40 *whether or not you have business records, even if you indeed do have them. If they issue a summons to call you in for*  
 41 *questioning, then you can be compelled appear at the deposition but you are well within your rights to claim the Fifth*  
 42 *Amendment as an answer to every question.*

43 Finally, the Fifth Amendment due process clause of the Constitution, demands reasonable specificity in criminal prohibitions  
 44 to enable a Citizen to conform to the law. The U.S. Supreme Court amplified this conclusion in the case of *Connally v.*  
 45 *General Construction Co.*, 269 U.S. 385 (1926):

46 *"A statute which either forbids or requires the doing of an act in terms so vague that men and women of common*  
 47 *intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of*  
 48 *due process of law."*

1 [Connally v. General Construction Co., 269 U.S. 385 (1926)]

2 There have been many instances of due process abuse by the IRS and state taxing authorities in the collection of taxes that  
 3 were not owed by Americans. It is quite common for the IRS to send a "Notice of Levy" to banks or lien to county recorders  
 4 without a court order or a jury trial in order to seize property of sovereign American Nationals ("nationals") who are not  
 5 legally required to pay income taxes. Much of the IRS Restructuring and Reform Act of 1998 was intended to eliminate the  
 6 absence of due process in the tax enforcement activities of the IRS. See the following websites for further information:

7 IRS Restructuring and Reform Act:

8 [https://en.wikipedia.org/wiki/Internal\\_Revenue\\_Service\\_Restructuring\\_and\\_Reform\\_Act\\_of\\_1998](https://en.wikipedia.org/wiki/Internal_Revenue_Service_Restructuring_and_Reform_Act_of_1998)

9 For a much more thorough and in-depth treatment of the 5<sup>th</sup> Amendment issue as it pertains to income taxes, we refer you to  
 10 an excellent book by William Conklin entitled *Why No One is Required to File Tax Returns*, ISBN 1-891833-91-X, \$21,  
 11 copyright 1996, 2000. This book is available from Davidson Press, 21520 Yorba Linda Blvd, #G440; Yorba Linda, CA  
 12 92887-3753, [info@davidsonpress.com](mailto:info@ davidsonpress.com); <http://davidsonpress.com>. Bill's website is at the following address:

13 <http://www.anti-irs.com/>

#### 14 **3.8.8.4 6<sup>th</sup> Amendment: Rights of Accused in Criminal Prosecutions**

15 *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury*  
 16 *of the State and district wherein the crime shall have been committed, which district shall have been previously*  
 17 *ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the*  
 18 *witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance*  
 19 *of Counsel for his defense.*

20 *[Sixth Amendment, Emphasis added]*

#### 21 **3.8.8.5 10<sup>th</sup> Amendment: Reservation of State's Rights**

22 *The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved*  
 23 *to the States respectively, or to the people.*

24 *[Tenth Amendment, Emphasis added]*

25 "The Tenth Amendment was intended to confirm the understanding of the people at the time the Constitution was adopted,  
 26 that powers not granted to the United States were reserved to the States or to the people. It added nothing to the instrument  
 27 as originally ratified."<sup>29</sup> "The amendment states but a truism that all is retained which has not been surrendered. There is  
 28 nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and  
 29 state governments as it had been established by the Constitution before the amendment or that its purpose was other than to  
 30 allay fears that the new federal government might seek to exercise powers not granted, and that the states might not be able  
 31 to exercise fully their reserved powers."<sup>30</sup> That this provision was not conceived to be a yardstick for measuring the powers  
 32 granted to the Federal Government or reserved to the States was firmly settled by the refusal of both Houses of Congress to  
 33 insert the word "expressly" before the word "delegated,"<sup>31</sup> and was confirmed by Madison's remarks in the course of the  
 34 debate which took place while the proposed amendment was pending concerning Hamilton's plan to establish a national bank.  
 35 "Interference with the power of the States was no constitutional criterion of the power of Congress. If the power was not  
 36 given, Congress could not exercise it; if given, they might exercise it, although it should not interfere with the laws, or even  
 37 the Constitutions of the States."<sup>32</sup> Nevertheless, for approximately a century, from the death of Marshall until 1937, the Tenth  
 38 Amendment was frequently invoked to curtail powers expressly granted to Congress, notably the powers to regulate  
 39 commerce, to enforce the Fourteenth Amendment, and to lay and collect taxes.

<sup>29</sup> *United States v. Sprague*, 282 U.S. 716, 733 (1931).

<sup>30</sup> *United States v. Darby*, 312 U.S. 100, 124 (1941). "While the Tenth Amendment has been characterized as a 'truism,' stating merely that 'all is retained which has not been surrendered,' [citing *Darby*], it is not without significance. The Amendment expressly declares the constitutional policy that Congress may not exercise power in a fashion that impairs the States' integrity or their ability to function effectively in a federal system." *Fry v. United States*, 421 U.S. 542, 547 n.7 (1975). This policy was effectuated, at least for a time, in *National League of Cities v. Usery*, 426 U.S. 833 (1976).

<sup>31</sup> Annals of Congress 767-68 (1789) (defeated in House 17 to 32); 2 B. Schwartz, *The Bill of Rights: A Documentary History* 1150-51 (1971) (defeated in Senate by unrecorded vote).

<sup>32</sup> 2 Annals of Congress 1897 (1791).

1 In *McCulloch v. Maryland*<sup>33</sup>, Marshall rejected the proffer of a Tenth Amendment objection and offered instead an expansive  
 2 interpretation of the necessary and proper clause<sup>34</sup> ([http://caselaw.lp.findlaw.com/data/constitution/amendment10/ - f6](http://caselaw.lp.findlaw.com/data/constitution/amendment10/-f6)) to  
 3 counter the argument. The counsel for the state of Maryland cited fears of opponents of ratification of the Constitution about  
 4 the possible swallowing up of states' rights and referred to the Tenth Amendment to allay these apprehensions, all in support  
 5 of his claim that the power to create corporations was reserved by that Amendment to the States<sup>35</sup>. Stressing the fact that the  
 6 Amendment, unlike the cognate section of the Articles of Confederation, omitted the word "expressly" as a qualification of  
 7 granted powers, Marshall declared that its effect was to leave the question "whether the particular power which may become  
 8 the subject of contest has been delegated to the one government, or prohibited to the other, to depend upon a fair construction  
 9 of the whole instrument."<sup>36</sup>

10 Federal Taxing Power --Not until after the Civil War was the idea that the reserved powers of the States comprise an  
 11 independent qualification of otherwise constitutional acts of the Federal Government actually applied to nullify, in part, an  
 12 act of Congress. This result was first reached in a tax case--*Collector v. Day*. Holding that a national income tax, in itself  
 13 valid, could not be constitutionally levied upon the official salaries of state officers, Justice Nelson made the sweeping  
 14 statement that "the States within the limits of their powers not granted, or, in the language of the Tenth Amendment, 'reserved,'  
 15 are as independent of the general government as that government within its sphere is independent of the States." In 1939,  
 16 *Collector v. Day* was expressly overruled. Nevertheless, the problem of reconciling state and national interest still confronts  
 17 the Court occasionally, and was elaborately considered in *New York v. United States*, where, by a vote of six-to-two, the  
 18 Court upheld the right of the United States to tax the sale of mineral waters taken from property owned by a State. Speaking  
 19 for four members of the Court, Chief Justice Stone justified the tax on the ground that "[t]he national taxing power would be  
 20 unduly curtailed if the State, by extending its activities, could withdraw from it subjects of taxation traditionally within it."  
 21 Justices Frankfurter and Rutledge found in the Tenth Amendment "no restriction upon Congress to include the States in  
 22 levying a tax exacted equally from private persons upon the same subject matter." Justices Douglas and Black dissented,  
 23 saying:

24 "If the power of the federal government to tax the States is conceded, the reserved power of the States guaranteed  
 25 by the Tenth Amendment does not give them the independence which they have always been assumed to have."

### 26 3.8.9 13th Amendment: Abolition of Slavery

27 *Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall*  
 28 *have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Section*  
 29 *2. Congress shall have power to enforce this article by appropriate legislation.*  
 30 *[Thirteenth Amendment, Emphasis added]*

31 Have you ever considered that being forced to pay income taxes to the state on the basis of wage income constitutes slavery?  
 32 It may not be physical slavery but it constitutes financial slavery. Merriam Webster defines slavery as follows:

33 slave 1: a person held in servitude as the chattel of another: BONDMAN 2: one that is completely subservient  
 34 to a dominating influence.<sup>37</sup>

35 slavery 1: DRUDGERY, TOIL 2: submission to a dominating influence 3 a: the state of a person who is a  
 36 chattel of another b: the practice of slaveholding.<sup>38</sup>  
 37 *[Merriam Webster's Ninth New Collegiate Dictionary, ISBN 0-97779-508-8, 1983]*

38 It then defines "servitude" as follows:

39 ser-vi-tude Pronunciation: 's&r-v&-"tiid, -"tyiid  
 40 Function: noun

<sup>33</sup> 17 U.S. (4 Wheat.) 316 (1819).

<sup>34</sup> Supra, pp.339-44.

<sup>35</sup> *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 372 (1819) (argument of counsel).

<sup>36</sup> Id. at 406. "From the beginning and for many years the amendment has been construed as not depriving the national government of authority to resort to all means for the exercise of a granted power which are appropriate and plainly adapted to the permitted end." *United States v. Darby*, 312 U.S. 100, 124 (1941).

<sup>37</sup> Webster's Ninth New Collegiate Dictionary, ISBN 0-87779-510-X, 1983, p. 1077.

<sup>38</sup> Webster's Ninth New Collegiate Dictionary, ISBN 0-87779-510-X, 1983, p. 1077.

1 *Etymology: Middle English, from Middle French, from Latin servitudo slavery, from servus slave*  
 2 *Date: 15th century*  
 3 *1 : a condition in which one lacks liberty especially to determine one's course of action or way of life*  
 4 *2 : a right by which something (as a piece of land) owned by one person is subject to a specified use or*  
 5 *enjoyment by another*

6 From the above definition, you can see that servitude, or slavery, encompasses not only surrendering control of one's body  
 7 and time to another, but it also involves the right of use and beneficial enjoyment of one's property as well. Servitude is a  
 8 condition where we have been involuntarily deprived of liberty. Black's Law Dictionary defines slavery as follows:

9 ***slavery:** The condition of a slave; that civil relation in which one man has absolute power over the life, fortune,*  
 10 *and liberty of another. The 13th Amendment abolished slavery.*

11 ***slave:** A person who is wholly subject to the will of another; one who has no freedom of action, but whose person*  
 12 *and services are wholly under the control of another. One who is under the power of a master, and who belongs*  
 13 *to him; so that the master may sell and dispose of his person, of his industry, and of his labor, without his being*  
 14 *able to do anything, have anything, or acquire anything, but what must belong to his master. The 13<sup>th</sup> Amendment*  
 15 *abolished slavery.*  
 16 *[Black's Law Dictionary, Sixth Edition, p. 1388]*

17 The condition of slavery is referred to in the U.S. Code, Title 18, Chapter 77 (sections 1581 through 1588) as "peonage",  
 18 which is defined as follows:

19 ***peonage 1 a:** the use of laborers bound in servitude because of debt **b:** a system of convict labor by which convicts*  
 20 *are leased to contractors **2:** the condition of a peon.*

21 ***peon 3 a:** a person held in compulsory servitude to a master for the working out of an indebtedness **b:** DRUDGE,*  
 22 *MENIAL*  
 23 *[Webster's Ninth New Collegiate Dictionary, ISBN 0-87779-510-X, 1983, p. 871]*

24 Would anyone argue that we aren't peons who are slaves to the Federal Reserve and who owe income taxes to pay off the  
 25 debts of the U.S. government to the privately owned Federal Reserve? Isn't peonage against the law, but that's what the U.S.  
 26 Congress legalized when it nearly simultaneously passed the Federal Reserve Act and the Income Tax in 1913? The two are  
 27 linked together because if you are going to run up a big public debt, then peons are needed to pay it off.

28 Notice that the key to being a slave is the absence of property rights, and the most sacred kind of property is one's labor, as  
 29 confirmed in the supreme Court case of *Butchers' Union Co. v. Crescent City Co.*, 111 U.S. 746, 1883. Thomas Jefferson,  
 30 the author of our Declaration of Independence, confirmed the foundation of our political system is the ownership and complete  
 31 control over one's property when he said the following:

32 *"The true foundation of republican government is the equal right of every citizen in his person and property and*  
 33 *in their management."*  
 34 *[Thomas Jefferson to Samuel Kercheval, 1816. ME 15:36 ]*

35 *"Nothing is ours, which another may deprive us of."*  
 36 *[Thomas Jefferson to Maria Cosway, 1786. ME 5:440 ]*

37 *"He who is permitted by law to have no property of his own can with difficulty conceive that property is founded*  
 38 *in anything but force."*  
 39 *[Thomas Jefferson to Edward Bancroft, 1788. ME 19:41 ]*

40 The U.S. supreme Court agreed with the view that sovereignty of the Citizen over his property (including his labor and the  
 41 wages resulting from his labor) is the foundation of all liberty:

42 *"For the very idea that one man may be compelled to hold his life, or the means of living, or any material right*  
 43 *essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom*  
 44 *prevails, as being the essence of slavery itself."*  
 45 *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

46 The government attempts to make it appear that the tax system is based on "voluntary compliance", but they never adequately  
 47 define what "voluntary" means or why they put the word "compliance" after it to confuse things. They also attempt to make  
 48 it look voluntary by illegally coercing and threatening employees to complete a W-4 "Withholding Allowance" certificate,  
 49 which in effect gives the government the permission from the employee to withhold income taxes from their pay. However,

1 there have been several cases where employees have refused to complete the W-4, and the employers have consulted the IRS,  
2 only to be told that they can't hire a person who won't complete and sign the W-4 (see section *EEOC v. Information Systems*  
3 *Consulting, Inc.*, CA3-92-0169-T, United States Court Northern District of Texas, Dallas Division; mentioned in section  
4 2.9.2). The courts have ruled in the case of *EEOC v. Information Systems Consulting, Inc.*, that it is considered illegal NOT  
5 to hire someone who refused to complete a W-4 form because it violates a person's civil rights!

6 Here is another way to look at it. Income taxes as they are currently (illegally, I might add) being implemented by the IRS  
7 effectively assess taxes on employment wages on the basis of or in proportion to the hours worked. For instance, if I am in  
8 the 28% tax bracket, then I am a slave to the IRS for 28% of the year. Every year, the media refers to what they call "tax  
9 freedom day", which is the day during the year at which everyone in America has paid off all their taxes to the federal  
10 government and everything they take home from that point is considered to be theirs. If income taxes are assessed on the  
11 basis of labor or as an equivalent percentage of labor, then in effect, for a portion of a person's work year that is in proportion  
12 to their income tax rate or percentage, the person being taxed in effect becomes a slave or involuntary servant of the  
13 government for the portion of the year corresponding to their tax percentage rate. The only way they could pay any kind  
14 of taxes and not be a slave to the government is if the taxes are excises (indirect) based on sales of goods, because then people  
15 have the discretion or choice as to whether they want to buy something or not, without the threat of coercion from the  
16 government to mandatorily pay a tax. Right now with the income taxes based on wages, all Congress has to do is make the  
17 income tax rate 100% and we all become INSTANT SLAVES of the government for the entire year, and people will have  
18 absolutely nothing they can do about it and we would all starve to death! And when you have no money, you can't afford to  
19 litigate to protect your rights either so you are likely to stay in that state indefinitely. The condition of financial slavery is  
20 therefore self-perpetuating.

21 Another thing to consider is that the income taxes on individuals are frequently used, in effect, for social engineering purposes  
22 that compel people to do things they would not otherwise do in *every conceivable area of life!* In this sense, people also  
23 become slaves using income taxes. All that is needed for this type of coercion is some new tax credit or tax penalty for a  
24 particular type of financial, moral, or economic activity. For instance, if congress wants to outlaw smoking, then all they  
25 have to do is make the price of continuing to smoke so high using a tax credit that no one will want to continue. They could  
26 offer a 10% additional charge to income taxes for people who smoke, which makes the cost of continuing to smoke so  
27 exorbitant that everyone would be compelled to quit! They could also do it, as Canada did, by an oppressively high type of  
28 income tax on smokers. This leads us to the conclusion that with direct income taxes, there is no such thing as freedom or  
29 privacy and the government has ultimate control over every aspect of our lives and can regulate every aspect of our behavior  
30 through taxation. This consideration is also behind the idea that it is unconstitutional for the government to either tax,  
31 penalize, or fine the exercise of constitutionally guaranteed rights.

32 Refer to section 2.4: The Freedom Test, to see whether you are a slave who has been deceived or deluded into thinking he is  
33 free. The slavery comes in many forms, and the main impetus behind continuing the financial slavery to the IRS that  
34 politicians will often talk about is paying off the national debt. As long as people believe that the national debt is large and  
35 needs to continue to be paid off, then they will be less likely to question the encroachment of their due process and 5<sup>th</sup> and  
36 14th Amendment protections by the IRS in the process of illegally implementing the income tax code. Citizens will be more  
37 likely to agree with the need to pay taxes they wouldn't otherwise owe. Never mind the fact that no matter how much money  
38 you give the politicians, they will always find excuses to deficit spend and will never pay off the debt! As long as the politicians  
39 are spending "other people's money" derived through income taxes with no constitutional or statutory obligation to balance  
40 the budget, they will continue to destroy the credit of the United States and force the national debt and public spending ever  
41 higher. This will ensure that the financial slavery and tax rates becomes more and more oppressive every year using the  
42 excuse that the budget isn't balanced. The more we borrow and the greater the interest on the national debt we have, the  
43 harder it will be to pay off current obligations without increasing taxes continually. The only way to stop this vicious cycle  
44 is to end the fiscal irresponsibility and lack of discipline or accountability of the fat-cat lawyers in Washington, D.C. Refer  
45 to section 2.8.11 Debt, for information about how government oppression is perpetuated and expanded in the name of public  
46 debt.

47 Based on the preceding discussion as a background, it is very easy to understand why the prudent founding fathers included  
48 a prohibition against direct taxes of the population by the U.S. Government in Article I, Section 2, Clause 3 of the constitution.  
49 It would appear they wanted to prevent involuntary financial slavery of individuals to the federal government, especially  
50 based on direct taxes on wages derived from employment. See section 3.8.1: Constitutional Government, for further  
51 discussion of this subject.

52 Don't forget:

1 **I**t's  
 2 **R**eally  
 3 **S**lavery

### 4 **3.8.10 14th Amendment: Citizenship and Equal Protection**

5 Below is the text of the Fourteenth Amendment:

6 *Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens*  
 7 *of the United States and of the state wherein they reside. No state shall make or enforce any law which shall*  
 8 *abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of*  
 9 *life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal*  
 10 *protection of the laws.*

11 *Section 2. Representatives shall be apportioned among the several states according to their respective numbers,*  
 12 *counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at*  
 13 *any election for the choice of electors for President and Vice President of the United States, Representatives in*  
 14 *Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any*  
 15 *of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any*  
 16 *way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be*  
 17 *reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens*  
 18 *twenty-one years of age in such state.*

19 *Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President,*  
 20 *or hold any office, civil or military, under the United States, or under any state, who, having previously taken an*  
 21 *oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or*  
 22 *as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged*  
 23 *in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may*  
 24 *by a vote of two-thirds of each House, remove such disability.*

25 *Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for*  
 26 *payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.*  
 27 *But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of*  
 28 *insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all*  
 29 *such debts, obligations and claims shall be held illegal and void.*

30 *Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.*

31 Article IV of the Articles of Confederation extended privileges of citizenship to mere inhabitants, with this phrase:

32 *"... the free inhabitants of each of these states, paupers, vagabonds and fugitives from Justice excepted, shall be*  
 33 *entitled to all privileges and immunities of free citizens in the several states"*

34 The Articles of Confederation uses phrases in which nouns are not capitalized proper nouns, and never use the preposition  
 35 "of", examples:

- 36 1. "states in this union"
- 37 2. "free inhabitants"
- 38 3. "free citizens"

39 The US Constitution omits references to the word "free", and instead uses phrases with proper capitalized nouns, and often  
 40 use the preposition "of":

- 41 1. "Citizen of the United States"
- 42 2. "Inhabitant of that State"
- 43 3. "Resident within the United States"
- 44 4. "People of the several States"
- 45 5. "residents of the same state"

1 The 14th amendment did not create a new type of "citizenship" or in any way adversely affect our civil rights but it simply  
 2 extended citizenship to people of all races and creeds rather than just to whites. Some people mistakenly believe that the  
 3 Fourteenth Amendment Section 1 created a new inferior type of citizenship analogous to ownership. In fact, this is not the  
 4 case, as we will explain exhaustively later in section 4.9 and following.

5 Equal protection under the law? Lawyers will tell you that the 14th amendment was the great equalizer. They will tell you  
 6 that your rights to equal protection under the law come from the 14th amendment. They will then ask you why you would  
 7 question such strong protections?

8 Compare the following two quotes that acknowledge equal protection under the law:

- 9 1. The 14th Amendment section 1, "... nor shall any State deprive any person of life, liberty, or property, without due  
 10 process of law... "
- 11 2. The 5th Amendment "... nor be deprived of life, liberty, or property, without due process of law..."

12 The U.S. Supreme Court in 1878 case of *Davidson v. New Orleans* stated that your Constitution is not redundant. They mean  
 13 different things.

14 Here is how the California Supreme Court describes the purpose of the Fourteenth Amendment in *Van Valkenburg v. Brown*,  
 15 43 Cal. 43 (1872):

16 *"The history and aim of the Fourteenth Amendment is well known, and the purpose had in view in its adoption*  
 17 *well understood. That purpose was to confer the status of citizenship upon a numerous class of persons*  
 18 *domiciled within the limits of the United States [the federal United States], who could not be brought within*  
 19 *the operation of the naturalization laws because native born, and whose birth, though native, had at the same*  
 20 *time left them without the status of citizenship. These persons were not white persons, but were, in the main,*  
 21 *persons of African descent, who had been held in slavery in this country, or, if having themselves never been*  
 22 *held in slavery, were the native-born descendants of slaves. Prior to the adoption of the Fourteenth Amendment*  
 23 *it was settled that neither slaves, nor those who had been such, nor the descendants of these, though native and*  
 24 *free born, were capable of becoming citizens of the United States. (Dread Scott v. Sanford, 19 How. 393). The*  
 25 *Thirteenth Amendment, though conferring the boon of freedom upon native-born persons of African blood, had*  
 26 *yet left them under an insuperable bar as to citizenship; and it was mainly to remedy this condition that the*  
 27 *Fourteenth Amendment was adopted."* [emphasis added]  
 28 [*Van Valkenburg v. Brown, 43 Cal. 43 (1872)*]

29 Here is what some state courts have said about this amendment:

30 *"I cannot believe that any court in full possession of all its faculties, would ever rule that the (14th) Amendment*  
 31 *was properly approved and adopted."*  
 32 [*State v. Phillips, 540 P.2d. 936; Dyett v. Turner, 439 P.2d. 266. [The court in this case was the Utah Supreme*  
 33 *Court.]*

34 Further, in 1967, Congress tried to repeal the 14th Amendment on the ground that it is invalid, void, and unconstitutional.  
 35 CONGRESSIONAL RECORD -- HOUSE, June 13, 1967, pg. 15641.

36 The portion of the 14th Amendment that draws the most attention within the freedom community reads in pertinent part,

37 *"All persons, born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the*  
 38 *United States and of the State wherein they reside....The validity of the public debt of the United States...shall not*  
 39 *be questioned."*

40 The words "and subject to the jurisdiction thereof" were further clarified in *U.S. v. Wong Kim Ark*, 169 U.S. 649 (1898) as  
 41 follows, and note that "subject to the jurisdiction thereof" includes people born in a state of the Union:

42 *"It is impossible to construe the words 'subject to the jurisdiction thereof,' in the opening sentence [of the*  
 43 *Fourteenth Amendment], as less comprehensive than the words 'within its jurisdiction,' in the concluding sentence*  
 44 *of the same section; or to hold that persons 'within the jurisdiction' of one of the states of the Union are not*  
 45 *'subject to the jurisdiction of the United States.'"*  
 46 [*U.S. v. Wong Kim Ark, 169 U.S. 649 (1898)*]

47 In *Powe v. U.S.*, 109 F.2d. 147, 149 (1940) the court determined what the term 'citizen' means in federal statutes. Notice that  
 48 the term 'citizen', when used in federal laws, excludes State citizens:

1                    "... a construction is to be avoided, if possible, that would render the law unconstitutional, or raise grave doubts  
2                    thereabout. In view of these rules it is held that 'citizen' means 'citizen of the United States,' and not a person  
3                    generally, nor citizen of a State ..."  
4                    [Powe v. U.S., 109 F.2d. 147, 149 (1940)]

5 Why did the framers of the Fourteenth Amendment word it the way they did? Following the end of the Civil War in 1865,  
6 several rebellious southern states refused to pass laws allowing blacks to have citizenship in the state, and if they couldn't be  
7 state citizens, then they also couldn't be "nationals of the United States", vote, or serve on juries. This meant that even though  
8 blacks technically were free, they had no rights. The Fourteenth Amendment was an attempt to remedy mainly this situation  
9 by conveying the privileges of nationality and "citizen" status to blacks. If you go back and look at the Fourteenth  
10 Amendment, section 1, you will see how this was accomplished.

11                    *Fourteenth Amendment*

12                    "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the  
13                    United States and of the state wherein they reside."

14 Congress' plan was to naturalize all the blacks into being citizens of the federal United States\*\* and then force the states to  
15 treat them like citizens of the state they resided in by virtue of them being "U.S. citizens". The other part of Section 1 of the  
16 Fourteenth Amendment confirms this:

17                    No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the  
18                    United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor  
19                    deny to any person within its jurisdiction the equal protection of the laws.

20 Since Congress was empowered by Article 1, Section 8, Clause 4 of the Constitution

21                    *U.S. Constitution*  
22                    *Article 1, Section 8, Clause 4*

23                    "To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout  
24                    the United States;"

25 then they had the Constitutional authority to naturalize the blacks to be federal/U.S.\*\* citizens, even though they weren't  
26 state citizens. The Civil Rights Act of 1866 on April 9, 1866, 14 Stat. 27 collectively naturalized blacks so they could be  
27 protected from state government abuses of their natural rights.

28                    "By the act of April 9, 1866, entitled 'An act to protect all persons in the United States in their civil rights, and  
29                    furnish means for their vindication,' (14 St. 27,) it is provided that 'all persons born in the United States, and not  
30                    subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States.'  
31                    This, so far as we are aware, is the first general enactment making persons of the Indian race citizens of the  
32                    United States. Numerous statutes and treaties previously provided for all the individual members of particular  
33                    Indian tribes becoming, in certain contingencies, citizens of the United States. But the act of 1866 reached Indians  
34                    not in tribal relations. Beyond question, by that act, national citizenship was conferred directly upon all persons  
35                    in this country, of whatever race, (excluding only 'Indians not taxed,') who were born within the territorial  
36                    limits of the United States, and were not subject to any foreign power."  
37                    [Elk v. Wilkins, 112 U.S. 94 (1884)]

38 The most frequent confusion we see within the freedom community over the issue of Fourteenth Amendment citizenship is  
39 misunderstanding of the differences between "United States" in the Constitution and "United States" in federal statutes. In  
40 the Constitution, the term means the states of the Union, while in federal statutes, it refers to what we call the "federal zone"  
41 or federal United States. This is a direct result of the fact that the federal government has no police powers within states of  
42 the Union, as we will point out later in section 4.8. The government contributes to this confusion by using terms on their  
43 forms and in their court rulings that they refuse to define or which they define ambiguously. To prevent this problem, you  
44 can simply define the terms you are using on any form by attaching a definition of all terms to every federal form you submit.  
45 Otherwise, we can guarantee that what you put on the form will be misconstrued by the public servant reading it, usually to  
46 the injury of your rights.

47 Unfortunately, there was an unwanted side effect to the Fourteenth Amendment much later on because long after black slavery  
48 was eliminated in the southern states following the Civil War, our greedy elected officials used confusion over citizenship  
49 terms used in the 14<sup>th</sup> Amendment to obtain federal jurisdiction over everyone in the country, and that is where they got the  
50 nexus to tax us all and circumvent the Constitutional limitations on direct taxation found in 1:9:4 and 1:2:3 of the Constitution!

1 They did this by deceiving lawyers and people to believe that a “citizen of the United States” under the Fourteenth  
 2 Amendment is the same as a “U.S. citizen” or “citizen of the United States” under federal statutes and “acts of Congress”.  
 3 The greedy politicians just couldn’t keep their hands out of your pocket, could they? In order to spread this kind of financial  
 4 slavery, they relied on the ignorance of an ill-informed populace to spread the myth that everyone was a “U.S. citizen”,  
 5 instead of a “national”, and that is where our troubles began, because this created a new pecking order that took away our  
 6 Constitutional rights in the context of federal income taxes. This made us all second class federal “U.S. citizens” subject to  
 7 “acts of Congress” instead of “Natural Born Sovereign American”.

8 Because of the differences in meaning of the term “United States” in the Constitution and “United States” in federal statutes,  
 9 you must be careful how you describe your citizenship. We’ll get into that in much more detail later in section 4.9 and  
 10 following. For now, however, we must understand what a “citizen of the United States” is under federal statutes, and  
 11 particularly under 8 U.S.C. §1401, keeping in mind that “United States” in that context and as defined in 8 U.S.C.  
 12 §1101(a)(38) and 8 C.F.R. §215.1(f) means **only** the federal United States. A “citizen of the United States” under federal  
 13 statutes can be any one of the following types of people:

- 14 1. **Persons who are actually “nationals” but who volunteer or elect to be treated as U.S. citizens, which fits the vast**  
 15 **majority of persons in this country at this time.** These people live in the 50 Union states and outside of federal  
 16 enclaves in those states, but are treated by the federal government as federal territory or property (slaves).
- 17 2. **Persons who were born on federal property subject to the exclusive jurisdiction of the United States under Article**  
 18 **1, Section 8, Clause 17 of the Constitution.** The only time the federal government actually has exclusive jurisdiction  
 19 over these people living in states of the Union is when the federal property they are living in is part of a federal enclave  
 20 within a state that comes under both federal and state law under either the Buck Act (4 U.S.C. §105 through 4 U.S.C.  
 21 §113).
- 22 3. **People who are federal property/territory (slaves).** These people can properly be described as “federal property” or  
 23 “territory over which the United States is sovereign” coming under Article 4, Section 3, Clause 2 of the Constitution.  
 24 You thought the Thirteenth Amendment outlawed slavery, didn’t you? Well it didn’t outlaw *voluntary slavery*, and that  
 25 is what you become if you elect to be a “U.S. citizen”.

26 If you closely examine the citizenship application forms used by the U.S. Citizenship and Immigration Services (USCIS):

27 <http://uscis.gov/graphics/formsfee/forms/index.htm>

28 then you will find that the sneaky federal government doesn’t even mention a word about “nationals” on their form N-400,  
 29 which is entitled “Application for Naturalization”. If you call them up like we did and ask them how to become a “national”  
 30 *instead* of the taxable “U.S. citizen” they desperately want you to be and what you should put on the form in order to guarantee  
 31 that, they will refuse to directly answer your question and run you in circles hoping you’ll just give up!

32 If you research the terms "resident" and "legal residence", you find that it is the nexus that binds us all to the state and federal  
 33 enforcement of commercial law statutes today. "Resident" is the short form of "Resident Alien" and is used in State statutes  
 34 to mean someone who exhibits actual presence in an area belonging to one nation while retaining a domicile/citizenship status  
 35 within another foreign nation [The United States/District of Columbia]. The federal income tax under Title 26, in fact, defines  
 36 the term “individual” as either an alien or a nonresident alien and does not even refer to citizens!<sup>39</sup> The term "legal residence"  
 37 further indicates that these two terms may be applied either to a geographical jurisdiction, or, a political jurisdiction. An  
 38 individual may reside in one or the other, or in both at the same time. In California, Government Code, section 126, sets forth  
 39 the essential elements of a compact between this State and the federal government allowing reciprocal taxation of certain  
 40 entities, and provide for concurrent jurisdiction within geographical boundaries.

41 If you would like to learn more about how the Fourteenth Amendment was changed from a mechanism to eliminate slavery  
 42 to a mechanism to introduce federal slavery, we recommend the following two fascinating books:

- 43 1. *Government by Judiciary: The Transformation of the Fourteenth Amendment*, Raoul Berger, Second Edition, 1997,  
 44 Liberty Fund, Inc.; 8335 Allison Pointe Trail, Suite 300; Indianapolis, Indiana 46250-1684; ISBN 0-86597-143-9  
 45 (hardcover).

<sup>39</sup> See 26 C.F.R. §1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3) for confirmation of this fact.

2. *The Red Amendment*, 2001 Edition, by L.B. Bork, People's Awareness Coalition, POB 313; Kieler, Wisconsin [ 53812 ]; <http://www.pacinelaw.org/inside/red.htm>. This book has several typographical and grammar errors and also has many flawed ideas about citizenship, so please ensure that you read Chapter 4 of this book before you read this book so that you can catch the errors for yourself as you read. Mr. Bork also tends to be rather bigoted and demagogic of the subject so take what he says with a grain of salt.

For a simplified presentation designed to rebut many common misconceptions about the Fourteenth Amendment, see:

*Why the Fourteenth Amendment is Not a Threat to Your Freedom*, Form #08.015  
<https://sedm.org/Forms/FormIndex.htm>

### 3.8.11 16th Amendment: Income Taxes

*"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. "*  
*[Sixteenth Amendment, Emphasis added]*

#### OFFICIAL BACKGROUND:

The Sixteenth Amendment was proposed by Congress on July 12, 1909, when it passed the House, 44 Cong. Rec. (61st Cong., 1st Sess.) 4390, 4440, 4441, having previously passed the Senate on July 5. Id., 4121. It appears officially in 36 Stat. 184. Ratification was completed on February 3, 1913, when the legislature of the thirty-sixth State (Delaware, Wyoming, or New Mexico) approved the amendment, there being then 48 States in the Union. On February 25, 1913, Secretary of State Knox certified that this amendment had become a part of the Constitution. 37 Stat. 1785. The several state legislatures ratified the Sixteenth Amendment on the following dates: Alabama, August 10, 1909; Kentucky, February 8, 1910; South Carolina, February 19, 1910; Illinois, March 1, 1910; Mississippi, March 7, 1910; Oklahoma, March 10, 1910; Maryland, April 8, 1910; Georgia, August 3, 1910; Texas, August 16, 1910; Ohio, January 19, 1911; Idaho, January 20, 1911; Oregon, January 23, 1911; Washington, January 26, 1911; Montana, January 27, 1911; Indiana, January 30, 1911; California, January 31, 1911; Nevada, January 31, 1911; South Dakota, February 1, 1911; Nebraska, February 9, 1911; North Carolina, February 11, 1911; Colorado, February 15, 1911; North Dakota, February 17, 1911; Michigan, February 23, 1911; Iowa, February 24, 1911; Kansas, March 2, 1911; Missouri, March 16, 1911; Maine, March 31, 1911; Tennessee, April 7, 1911; Arkansas, April 22, 1911 (after having rejected the amendment at the session begun January 9, 1911); Wisconsin, May 16, 1911; New York, July 12, 1911; Arizona, April 3, 1912; Minnesota, June 11, 1912; Louisiana, June 28, 1912; West Virginia, January 31, 1913; Delaware, February 3, 1913; Wyoming, February 3, 1913; New Mexico, February 3, 1913; New Jersey, February 4, 1913; Vermont, February 19, 1913; Massachusetts, March 4, 1913; New Hampshire, March 7, 1913 (after having rejected the amendment on March 2, 1911). The amendment was rejected (and not subsequently ratified) by Connecticut, Rhode Island, and Utah.

If you would like to look at the legislative intent of the Sixteenth Amendment from the perspective of Congress, refer to the complete Congressional Debates on the subject right from the Congressional Record in 1909. We have posted this on our website below. **WARNING:** *It's a large file of 31 Mbytes so please save this to your local hard drive and examine it there so you don't clog our internet pipe!:*

*Sixteenth Amendment Congressional Debates*, Family Guardian Fellowship  
<http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf>

If you would like to look at the annotated version of the Sixteenth Amendment, that too is posted on our website at:

Annotated Sixteenth Amendment, Westlaw  
<http://famguardian.org/TaxFreedom/Authorities/FedLaw/USCA-16thAmend2002.pdf>

#### 3.8.11.1 Purpose: tax nonresident alien INDIVIDUALS without apportionment

The Sixteenth Amendment authorized taxation without apportionment. Here are some of the limitations of the amendment as espoused by the U.S. Supreme Court:

1 "No doubt is suggested (the former requirement of apportionment having been removed by constitutional  
2 amendment) as to the power of Congress thus to impose taxes upon incomes produced within the borders of the  
3 United States or arising from sources located therein, even though the income accrues to a non-resident alien.  
4 And, so far as the question of jurisdiction is concerned, the due process clause of the Fourteenth Amendment  
5 imposes no greater restriction in this regard upon the several States than the corresponding clause of the Fifth  
6 Amendment imposes upon the United States.  
7 [Shaffer v. Carter, 252 U.S. 37 (1920)]

8 ". . . by the previous ruling it was settled that **the provisions of the Sixteenth Amendment conferred no new**  
9 **power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed**  
10 **by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently**  
11 **belonged and being placed in the category of direct taxation subject to apportionment** by a consideration of the  
12 sources from which the income was derived, that is by testing the tax not by what it was — a tax on income, but  
13 by a mistaken theory deduced from the origin or source of the income taxed."  
14 [Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]

15 "The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, "from  
16 [271 U.S. 174] whatever source derived," without apportionment among the several states and without regard to  
17 any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within  
18 the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had  
19 been held to be "direct taxes" within the meaning of the constitutional requirement as to apportionment. Art. 1,  
20 §2, cl. 3, §9, cl. 4; Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that  
21 requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and  
22 those that are not, and so put on the same basis all incomes "from whatever source derived." Brushaber v. Union  
23 P. R. Co., 240 U.S. 1, 17. **"Income" has been taken to mean the same thing as used in the Corporation Excise**  
24 **Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern**  
25 **Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full**  
26 **consideration, this Court declared that income may be defined as gain derived from capital, from labor, or**  
27 **from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v.**  
28 **Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S.**  
29 **189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v.**  
30 **Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169;**  
31 **Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin**  
32 **v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes**  
33 **income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S.**  
34 **175]"**  
35 [Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174 (1926)]

36 "In order, therefore, that the [apportionment] clauses cited from article I [§2, cl. 3 and §9, cl. 4] of the  
37 Constitution may have proper force and effect ... [I]t becomes essential to distinguish between what is and what  
38 is not 'income,' ... according to truth and substance, without regard to form. **Congress cannot by any definition**  
39 **it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it**  
40 **derives its power to legislate, and within those limitations alone that power can be lawfully exercised** ... [pg.  
41 207] ... After examining dictionaries in common use we find little to add to the succinct definition adopted in two  
42 cases arising under the Corporation Tax Act of 1909, Stratton's Independence v. Howbert, 231 U.S. 399, 415, 34  
43 S.Sup.Ct. 136, 140 [58 L.Ed. 285] and Doyle v. Mitchell Bros. Co., 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469, 62  
44 L.Ed. 1054..."  
45 [Eisner v. Macomber, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920) ]

46 Based on the above, the income tax based upon the Sixteenth Amendment is really directed at nonresident alien  
47 INDIVIDUALs, and it is an excise or indirect tax upon foreign commerce instituted by foreign corporations. That is why it  
48 derives from the Corporate Excise Tax Act of 1909. The income is a measure of the volume of the activity. The tax does  
49 not affect those who are citizens or residents unless they are abroad under 26 U.S.C. §911. In that capacity, they interface to  
50 the Internal Revenue Code as aliens through a tax treaty with the foreign country they are in. If they don't claim the benefits  
51 of a tax treaty, they are not "individuals" or "aliens" under the I.R.C., but simply nonresident non-persons.

### 52 3.8.11.2 Legislative Intent of the 16<sup>th</sup> Amendment According to President William H. Taft<sup>40</sup>

53 "It was not the purpose or effect of that amendment to bring any new subject within the taxing power."  
54 [Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 46 S.Ct. 449 (1926)]

55 Whenever there are controversies over the interpretation of a statute or a Constitutional provision, the first thing that courts  
56 of justice will resort to is the plain language of the law itself. If the language is unclear or subject to multiple interpretations,

<sup>40</sup> Adapted from the book *Constitutional Income, Do You Have Any?*, by Phil Hart, 2001, ISBN 0-9711880-0-9; Alpine Press, 1324 N. Liberty Lake Road, PMB 145; Liberty Lake, Washington 99019. See especially pp. 197-203.

1 the courts will then examine the legislative intent revealed by those who wrote the law. The most revealing way to determine  
2 the legislative intent of any law is to examine the Congressional debates preceding its enactment. All changes to the law that  
3 were proposed during debate and rejected must then be rejected as not being consistent with the intent of the proposed law.

4 The first thing we must look at to discern the intent of the Sixteenth Amendment is the proposal of the President himself. The  
5 following speech was given in front of the U.S. Senate by President William H. Taft, in which he introduced the 16<sup>th</sup>  
6 Amendment and clearly revealed its legislative intent. It is very revealing, in that it shows that the intent was to allow the  
7 government to tax only its own employees but not private citizens. President Taft would also later be appointed to the  
8 Supreme Court in 1921 as the Chief Justice, and eventually became the only U.S. President who ever served as the Chief  
9 Justice of the Supreme Court and a Collector of Internal Revenue. He replaced E.B. White as the Chief Justice, who you  
10 may recall was the person who opposed the majority view in the Pollock Case that declared income taxes unconstitutional.  
11 White wanted to make direct taxes legal, and apparently, so did Taft. No other U.S. President, therefore, had a better  
12 understanding of the legal implications of the proposed 16<sup>th</sup> Amendment than did Taft.

13 **CONGRESSIONAL RECORD - SENATE - JUNE 16, 1909**

14 *[From Pages 3344 – 3345]*

15 *The Secretary read as follows:*

16 *To the Senate and House of Representatives:*

17 *It is the constitutional duty of the President from time to time to recommend to the consideration of*  
18 *Congress such measures, as he shall judge necessary and expedient. In my inaugural address,*  
19 *immediately preceding this present extraordinary session of Congress, I invited attention to the necessity*  
20 *for a revision of the tariff at this session, and stated the principles upon which I thought the revision*  
21 *should be affected. I referred to the then rapidly increasing deficit and pointed out the obligation on the*  
22 *part of the framers of the tariff bill to arrange the duty so as to secure an adequate income, and suggested*  
23 *that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among*  
24 *them I recommended a graduated inheritance tax as correct in principle and as certain and easy of*  
25 *collection.*

26 *The House of Representatives has adopted the suggestion, and has provided in the bill it passed for the*  
27 *collection of such a tax. In the Senate the action of its Finance Committee and the course of the debate*  
28 *indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the*  
29 *imposition of a general income tax, in form and substance of almost exactly the same character as, that*  
30 *which in the case of Pollock v. Farmer's Loan and Trust Company (157 U.S., 429) was held by the*  
31 *Supreme Court to be a direct tax, and therefore not within the power of the Federal Government to*  
32 *Impose unless apportioned among the several States according to population. [Emphasis added] This*  
33 *new proposal, which I did not discuss in my inaugural address or in my message at the opening of the*  
34 *present session, makes it appropriate for me to submit to the Congress certain additional*  
35 *recommendations.*

36 *Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into*  
37 *the Treasury to meet the present deficiency. The decision of the Supreme Court in the income-tax cases*  
38 *deprived the National Government of a power which, by reason of previous decisions of the court, it*  
39 *was generally supposed that government had. It is undoubtedly a power the National Government*  
40 *ought to have. It might be indispensable to the Nation's life in great crises. Although I have not*  
41 *considered a constitutional amendment as necessary to the exercise of certain phases of this power, a*  
42 *mature consideration has satisfied me that an amendment is the only proper course for its establishment*  
43 *to its full extent.*

44 *I therefore recommend to the Congress that both Houses, by a two-thirds vote, shall propose an*  
45 *amendment to the Constitution conferring the power to levy an income tax upon the National*  
46 *Government without apportionment among the States in proportion to population.*

1 This course is much to be preferred to the one proposed of reenacting a law once judicially declared to  
2 be unconstitutional. For the Congress to assume that the court will reverse itself, and to enact legislation  
3 on such an assumption, will not strengthen popular confidence in the stability of judicial construction of  
4 the Constitution. It is much wiser policy to accept the decision and remedy the defect by amendment in  
5 due and regular course.

6 Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into  
7 the Treasury to meet the present deficiency, but by putting on the statute book a law already there and  
8 never repealed will simply be suggesting to the executive officers of the Government their possible duty  
9 to invoke litigation.

10 If the court should maintain its former view, no tax would be collected at all. If it should ultimately  
11 reverse itself, still no taxes would have been collected until after protracted delay.

12 It is said the difficulty and delay in securing the approval of three-fourths of the States will destroy all  
13 chance of adopting the amendment. Of course, no one can speak with certainty upon this point, but I  
14 have become convinced that a great majority of the people of this country are in favor of investing the  
15 National Government with power to levy an income tax, and that they will secure the adoption of the  
16 amendment in the States, if proposed to them.

17 **Second, the decision in the Pollock case left power in the National Government to levy an excise tax,**  
18 **which accomplishes the same purpose as a corporation income tax and is free from certain objections**  
19 **urged to the proposed income tax measure.**

20 I therefore recommend an **amendment to the tariff bill Imposing upon all corporations and joint stock**  
21 **companies for profit, except national banks (otherwise taxed), savings banks, and building and loan**  
22 **associations, an excise tax measured by 2 per cent on the net income of such corporations. This is an**  
23 **excise tax upon the privilege of doing business as an artificial entity and of freedom from a general**  
24 **partnership liability enjoyed by those who own the stock.** [Emphasis added] I am informed that a 2 per  
25 cent tax of this character would bring into the Treasury of the United States not less than \$25,000,000.

26 The decision of the Supreme Court in the case of Spreckels Sugar Refining Company against McClain  
27 (192 U.S., 397), seems clearly to **establish the principle that such a tax as this is an excise tax upon**  
28 **privilege and not a direct tax on property,** and is within the federal power without apportionment  
29 according to population. The tax on net income is preferable to one proportionate to a percentage of  
30 the gross receipts, because it is a tax upon success and not failure. It imposes a burden at the source of  
31 the income at a time when the corporation is well able to pay and when collection is easy.

32 Another merit of this tax is the federal supervision, which must be exercised in order to make the law  
33 effective over the annual accounts and business transactions of all corporations. While the faculty of  
34 assuming a corporate form has been of the utmost utility in the business world, it is also true that  
35 substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform  
36 were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system  
37 of taxation, we are incidentally able to possess the Government and the stockholders and the public of  
38 the knowledge of the real business transactions and the gains and profits of every corporation in the  
39 country, we have made a long step toward that supervisory control of corporations which may prevent  
40 a further abuse of power.

41 I recommend, then, first, the adoption of a joint resolution by two-thirds of both Houses, proposing to  
42 the States an amendment to the Constitution granting to the Federal Government the right to levy and  
43 collect an income tax without apportionment among the several States according to population; and,  
44 second, the enactment, as part of the pending revenue measure, either as a substitute for, or in addition  
45 to, the inheritance tax, of an excise tax upon all corporations, measured by 2 percent of their net income.

46 Wm. H. Taft

Some people have asserted that it is deceptive to claim that the phrase above "**shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government**" implies it is a tax upon the government. In retort, it may interest the reader to know that:

1. Taft could have said "**shall propose an amendment to the Constitution conferring upon the national government the power to levy an income tax**" but DID NOT state it more correctly this way.
2. The legislative implementation of what he proposed he described as an excise and a privilege tax ONLY upon corporations, which even after the Sixteenth Amendment was ratified, is EXACTLY and ONLY what the Sixteenth Amendment currently authorizes. These corporations are NATIONAL corporations, not STATE corporations, by the way.

*"Income" has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v. Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v. Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169; Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S. 175]"*  
*[Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926)]*

3. The U.S. Supreme Court in Downes v. Bidwell agreed that the income tax extends wherever the GOVERNMENT extends, rather than where the GEOGRAPHY extends. Notice it says "without limitation as to place" and "places over which the GOVERNMENT extends".

*Loughborough v. Blake, 18 U.S. 317, 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. 216, c. 60, Fed. 17, 1815. It was insisted that Congress could act in a double capacity: in [\*\*\*32] one as legislating [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. I, sec. 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. 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. I, sec. 20, 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 [\*\*\*33] represented, or shall be apportioned to representatives; but that direct taxation, in its application to States, shall be apportioned to numbers." That Art. I, sec. 9, P4, 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 ninth 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 second section require that it shall be extended to all the [777] 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)]*

4. The definition of "person" in [26 U.S.C. §6671\(b\)](#) and [26 U.S.C. §7343](#) for the purposes of penalty and criminal enforcement purposes limits itself to government employees and instrumentalities of the government. The rules of statutory construction and interpretation forbid adding anything to these definitions not expressly provided, such as PRIVATE constitutionally protected men and women. Thus, anyone who doesn't fall within the ambit of these definitions is, by definition, a VOLUNTEER because not a proper target of enforcement.

[TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > Sec. 6671](#)  
[Sec. 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> Sec. 7343.  
Sec. 7343. - Definition of term "person"

The term "person" as used in this chapter [Chapter 75] 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

5. The following memorandum of law proves that the only proper target of IRS enforcement are public officers WITHIN the government.

Why Your Government is Either a Thief or You are a Public Officer for Income Tax Purposes, Form #05.007  
<https://sedm.org/Forms/05-MemLaw/WhyThiefOrPubOfficer.pdf>

6. The fact that "United States" is geographically defined in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) as the District of Columbia and the CONSTITUTIONAL states of the Union are never mentioned. That place is synonymous with the GOVERNMENT in [4 U.S.C. §72](#) and not any geography.
7. The fact that the ACTIVITY that is subject to excise taxation within the Internal Revenue Code is legally defined in [26 U.S.C. §7701\(a\)\(26\)](#) as "the functions of a public office", meaning an office WITHIN the national and not state government. For exhaustive details on this subject, see:

The "Trade or Business" Scam, Form #05.001  
<https://sedm.org/Forms/05-MemLaw/TradeOrBusScam.pdf>

8. The fact that the Federal Register Act and the Administrative Procedures act both limit the TARGET of direct STATUTORY enforcement to the following groups, none of which include most people in states of the Union and which primarily consist of government employees only:

8.1. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#) .

8.2. A matter relating to agency management or personnel or **to public property, loans, grants, benefits, or contracts**. [5 U.S.C. §553\(a\)\(2\)](#).

8.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).

You can find more on the above in:

Challenge to Income Tax Enforcement Authority Within Constitutional States of the Union, Form #05.052  
<https://sedm.org/Forms/05-Memlaw/ChallengeToIRSEnforcementAuth.pdf>

9. The fact that they can only tax legislatively created offices who work for them. See:

Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship  
<https://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>

10. The idea that governments are created to PROTECT private property, not steal it, and that taxation involves the institutionalized process of converting PRIVATE property to PUBLIC property without the express consent of the owner. Thus, the process of PAYING for government protection involves the OPPOSITE purpose for which governments are created—converting PRIVATE property to PUBLIC property, often without the consent of the owner, for the purposes of delivering the OPPOSITE, which is PREVENTING PRIVATE property from being converted to PUBLIC property! The Declaration of Independence declares that all just powers derive from the consent of the governed, and yet we make an EXCEPTION to that requirement when it comes to taxation? Absurd. So they HAVE to procure your consent to occupy a civil statutory office BEFORE they can enforce against you or else they are violating the Thirteenth Amendment and engaging in criminal human trafficking. For a description of just how absurd it is to NOT require consent to this office and to convert (STEAL) private property without the consent of the owner, see:

Separation Between Public and Private Course, Form #12.025  
<https://sedm.org/LibertyU/SeparatingPublicPrivate.pdf>

11. A query of the ChatGPT-4 AI Chatbot confirms our analysis is correct:

In the phrase "shall propose an amendment to the Constitution conferring the power to levy an income tax upon XYZ", was this a tax upon xyz or upon people OTHER than xyz?

- ✓ Searching for: what is the meaning of "levy an income tax upon XYZ" in the constitution
- ✓ Generating answers for you...

The phrase "shall propose an amendment to the Constitution conferring the power to levy an income tax upon XYZ" means that the amendment would give the National Government the power to impose a tax on XYZ<sup>1</sup>. Therefore, the income tax would be imposed on XYZ and not on people other than XYZ.

**Learn more:**

1. [merriam-webster.com](http://merriam-webster.com)

2. [merriam-webster.com](http://merriam-webster.com)

3. [britannica.com](http://britannica.com) — see less

1

2 So what the President proposed was an excise tax on the government itself, and nothing more. This is important. You can  
3 view the original version of Taft's speech above along with the complete Congressional Debates on the Sixteenth Amendment  
4 on our website at the address below:

*Congressional Debates on the Sixteenth Amendment*, Family Guardian Fellowship  
<http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf>

5 After we look at what our President proposed, the next thing we must look at to discern legislative intent are the Congressional  
6 debates on the Sixteenth Amendment in 1909. Three different written versions of the Sixteenth Amendment were proposed

before the one we have now was approved by Congress and sent to the states for ratification. Below is a summary of each in written form:

**Table 3-3: Versions of Proposed Sixteenth Amendment prior to approval**

<i>Version</i>	<i>Text of proposed Amendment</i>	<i>Vote on proposed amendment</i>
Senate Joint Resolution (S.J.R.) No. 25	“The Congress shall have power to lay and collect taxes on incomes and inheritances.”	Rejected
Senate Joint Resolution (S.J.R.) No. 39	“The Congress shall have power to lay and collect <i>direct</i> [emphasis mine] taxes on incomes without apportionment among the several States according to population.” [44 Cong.Rec. 3377 (1909)]	Rejected
Senate Joint Resolution (S.J.R.) No. 40	“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.” [This is the version of the Sixteenth Amendment we have now]	Approved 77 to 15 on July 5, 1909.

The first two, obviously, were voted down, but what were they? Both versions that were voted down included proposals to levy a direct tax on the states without apportionment and one of them proposed to eliminate the apportionment requirements found in Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the Constitution!

Senator Brown from Nebraska wrote all three versions of the Sixteenth Amendment that were voted on by Congress, which included S.J.R. No. 25, S.J.R. No. 39, and S.J.R. No. 40, in that order. S.J.R. No. 40 was the one finally approved. The Senate voted in favor of the 16<sup>th</sup> Amendment we have now (S.J.R. No. 40) at 1 o'clock on July 5, 1909. Senator Aldrich had earlier tried to ram it through the Senate on Saturday, July 3<sup>rd</sup>, a holiday weekend, for an immediate vote without debate when only 52 senators were present. A few senators protested and the vote was set for the following Monday. As a result of the minimal debate that did take place on July 3<sup>rd</sup>, several amendments were proposed to S.J.R. No. 40 that came up for a vote at the appointed hour of 1 P.M. Monday, July 5<sup>th</sup>.

The first of these was an amendment to S.J.R. No. 40, proposed as S.J.R. No. 25 by Senator Bailey of Texas to provide that conventions of each of the several States be required to ratify the constitutional amendment as opposed to the state legislatures. This was voted down.

Next was the second amendment to the proposed Sixteenth Amendment in the form of S.J.R. No. 39. This amendment by Bailey to add the language “and may grade the same” to modify the term “income tax” as a way to provide that the tax may be graduated. Bailey proposed this language on Saturday, July 3<sup>rd</sup>. By Monday, July 5<sup>th</sup>, when this came up for a vote, Bailey realized it would fail and tried to have it withdrawn. Bailey wanted it withdrawn because, according to Bailey:

*“Mr. President, I am satisfied that this amendment will be voted down; and voting it down would warrant the Supreme Court in hereafter saying that a proposition to authorize Congress to levy a graduated income tax was rejected.”*  
[44 Cong.Rec. 4120 (1920)]

In other words, Senator Bailey understood that once Congress rejected a particular provision while amending the Constitution, Congress would be forever barred from implementing that provision by way of statute in the future. This legal principle applies to all legislation, even to income taxes. It is also why the Framers had the Constitution mandate that Congress keep a journal.

Bailey was told by the Senate’s Vice President that he could not withdraw the amendment and that it must be voted on. The rules required it. Senator Aldrich intervened and somehow the rules were suspended and the amendment was withdrawn without a vote.

Next was an amendment by Senator McLaurin of Mississippi. His proposed amendment to S.J.R. No. 40 was as follows:

*“The SECRETARY. Amend the joint resolution by striking out all after line 7 and inserting the following: ‘The words ‘and direct taxes’ in clause 3, section 2, Article I, and the words ‘or other direct,’ in clause 4, section 9, Article I. Of the Constitution of the United States are hereby stricken out.’”*  
[44 Cong.Rec. 4109 (1909)]

1 Senator McLaurin's amendment would have stricken out the requirement for apportionment of direct taxes from Article 1,  
2 Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the Constitution and made the income tax into an unapportioned  
3 direct tax! The Senate rejected this, as this amendment failed by voice vote. Had this amendment passed, it would have  
4 provided authority for a species of income tax that was inherently a direct tax to be levied without apportionment, and it  
5 would have changed the original wording of the Constitution to forever do away with the prohibition against direct taxes.

6 Lastly, there was an amendment by Senator Bristow of Kansas to replace S.J.R. No. 40 with S.J.R. No. 39. S.J.R. No. 39  
7 read:

8 *"The Congress shall have the power to lay and collect direct[emphasis mine] taxes on income without*  
9 *apportionment among the several States according to population."*  
10 *[S.J.R. No 39, Senator Bristow]*

11 This substitute amendment also included a provision to elect senators by popular vote. After some debate this was also  
12 rejected by voice vote.

13 Next, S.J.R. No. 40, the version of the Sixteenth Amendment that we have now, was voted on and passed 77 to 15. So what  
14 can we conclude from all of this? Well, first of all we can conclude that the Senate understood it was the practice of the  
15 Supreme Court at the proceedings of Congress to see what the intent of the Congress was. If Congress voted on a measure  
16 and rejected it, then the Supreme Court would interpret that vote as a clarification of the intent and purpose of Congress.  
17 Here is how Sutherland's rules on statutory construction explains it:

18 *"One of the most readily available extrinsic aids to the interpretation of statutes is the action of the legislature*  
19 *on amendments which are proposed to be made during the course of consideration in the legislature. Both the*  
20 *state and federal courts will refer to proposed changes in a bill in order to interpret the statute as finally enacted.*  
21 *The journals of the legislature are the usual source for this information. Generally the rejection of an amendment*  
22 *indicates that the legislature does not intend the bill to include the provisions embodied in the rejected*  
23 *amendment."*  
24 *[Sutherland on Statutory Construction, sec. 48.18 (5<sup>th</sup> Edition)]*

25 We also learned that twice the Senate was offered the opportunity to vote on a measure to provide that the income tax being  
26 considered by the 16<sup>th</sup> Amendment would provide for a direct tax within the constitutional meaning of the term "direct tax."  
27 Twice in the hour or so prior to the final Senate vote on the income tax amendment, the Senate rejected the opportunity to  
28 bring direct taxes within the scope of the 16<sup>th</sup> Amendment. This issue was squarely before the Congress, and Congress  
29 rejected it.

30 *"It is plain, then, that Congress had this question presented to its attention in a most precise form. It has the*  
31 *issue clearly drawn. The first alternative was rejected. All difficulties of construction vanish if we are willing to*  
32 *give to the words, deliberately adopted, their natural meaning."*  
33 *[U.S. v. Pfitzsch, 256 U.S. 547, 552 (1921)]*

34 *"When a court reviews an agency's construction of the statute which it administers, it is confronted with two*  
35 *questions. First, always, is the question whether Congress has directly spoken to the precise question at issue.*  
36 *If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect*  
37 *to the unambiguously expressed intent of the Congress."*  
38 *[Chevron U.S.A. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)]*

39 Now of these two opportunities to include direct taxes within the authority of the 16<sup>th</sup> Amendment, the second of the two also  
40 included a provision on the election of Senators by popular vote. But the same issue of the election of Senators was later  
41 approved by the Senate and sent out to the several States as the 17<sup>th</sup> Amendment to the Constitution. This Amendment was  
42 purportedly ratified and is not part of our Constitution. Therefore, the reason the second Bristow amendment failed was due  
43 to the term "direct taxes" and not because of the election of senators issue.

44 It can't be any more clear. The 16<sup>th</sup> Amendment does not provide authority for a direct tax on incomes, but only authority  
45 for an indirect tax on incomes. A direct tax on incomes is a tax that diminishes the source of the income. An indirect tax on  
46 income is a tax on unearned income or profit; such a tax leaves the source of the income undiminished. Twice during the  
47 debates on the 16<sup>th</sup> Amendment (S.J.R. No. 25 and S.J.R. No. 39), Congress rejected the idea of bringing direct taxes within  
48 the authority of the 16<sup>th</sup> Amendment. Then twice more, on July 5, 1909, Congress rejected the idea by direct vote of the  
49 Senate. Despite this congressional hostility to the idea, the IRS and the lower courts admit they are collecting a direct tax.  
50 At a minimum this is scandalous. In reality it is probably criminal.

1                   *“Acts of Congress are to be construed and applied in Harmony with and not to thwart the purpose of the*  
 2                   *Constitution.”*  
 3                   *[Phelps v. U.S., 274 U.S. 341, 344 (1927)]*

4                   *“Courts should construe laws in Harmony with the legislative intent and seek to carry out legislative purpose.*  
 5                   *With respect to the tax provisions under consideration, there is no uncertainty as to the legislative purpose to tax*  
 6                   *post-1913 corporate earnings. We must not give effect to any contrivance which would defeat a tax Congress*  
 7                   *plainly intended to impose.”*  
 8                   *[Foster v. U.S., 303 U.S. 118, 120-1 (1938)]*

9 Today the government’s story is that the 16<sup>th</sup> Amendment provides authority for an unapportioned direct tax. But in 1916  
 10 the Attorney General of the United States’ office understood this differently. In the case of *Peck & Co. v. Lowe* the attorney  
 11 general for the United States stated:

12                   *“It is, however, equally clear that a general income tax is an excise tax laid upon persons or corporations with*  
 13                   *respect to their income: that is, a person or a corporation is selected out from the mass of the community by*  
 14                   *reason of the income possessed by him or it..*

15                   *“This is brought out clearly by this court in Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, and Stanton v.*  
 16                   *Baltic Mining Co., 240 U.S. 103. In the former case it was pointed out that the all-embracing power of taxation*  
 17                   *conferred upon Congress by the Constitution included two great classes, one indirect taxes or excises, and the*  
 18                   *other direct taxes, and that of apportionment with regard to direct taxes. It was held that the income tax in its*  
 19                   *nature is an excise; that is, it is a tax upon a person measured by his income...It was further held that the effect*  
 20                   *of the Sixteenth Amendment was not to change the nature of this tax or to take it out of the class of excises to*  
 21                   *which it belonged, but merely to make it impossible by any sort of reasoning thereafter to treat it as a direct tax*  
 22                   *because of the sources from which the income was derived.”*  
 23                   *[Brief for the United States at 14-15 in Peck & Co. v. Lowe, 247 U.S. 165 (1917). Not in the ruling itself]*

24 This argument by the United States was in response to the question put to the court by Peck & Co. as to whether the 16<sup>th</sup>  
 25 Amendment created any new taxing power.

26                   *“The Sixteenth Amendment to the Constitution has not enlarged the taxing power of Congress or affected the*  
 27                   *prohibition against its burdening exports.”*  
 28                   *[Brief for the Appellant at 11, Peck & Co. v. Lowe, 247 U.S. 165 (1917)]*

29 Had the 16<sup>th</sup> Amendment provided for an unapportioned direct tax this would have been an enlargement of the taxing power  
 30 of Congress. At least on the issue of whether there was an exemption to the apportionment rule for direct taxes, all parties to  
 31 the *Peck & Co. v. Lowe Case* agreed there wasn’t. The issue of the case dealt with the taxation of export, not direct taxes.  
 32 The Supreme Court ruled in *Stanton v. Baltic Mining* that there was no enlargement to the taxation authority of Congress by  
 33 the ratification of the Sixteenth Amendment. Therefore it is settled; the 16<sup>th</sup> Amendment did not grant to Congress an  
 34 exception to the apportionment rule for direct taxes required by the Constitution.

35 Just as the intent of the Congress should be followed when constructing a statute, so must the intent of the People, in their  
 36 sovereign capacity, be followed when construing an amendment to the Constitution.

37 The construction of the 21<sup>st</sup> Amendment to the U.S. Constitution absolutely proves our argument. It was necessary for the  
 38 21<sup>st</sup> Amendment to repeal the 18<sup>th</sup> Amendment before the 21<sup>st</sup> Amendment could have any effect. Both Amendments related  
 39 to “intoxicating liquors.” The 18<sup>th</sup> Amendment prohibited the manufacture, sale, or transportation or importation and use of  
 40 them. Section 1 of the 21<sup>st</sup> Amendment reads “The eighteenth article of amendment to the Constitution of the United States  
 41 is hereby repealed.” The 21<sup>st</sup> Amendment would not have been in Harmony with the totality of the Constitution unless the  
 42 18<sup>th</sup> Amendment was first repealed. Similarly, had it been the intention of Congress to offer to the people an income tax  
 43 amendment which would give Congress the power to impose a direct tax on the source of income without apportionment, the  
 44 16<sup>th</sup> Amendment would have provided for such power only by modifying the direct taxing clauses of the Constitution found  
 45 at Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4. The 16<sup>th</sup> Amendment did not do this.

46 Section 2 of the 18<sup>th</sup> Amendment included an enforcement clause which read “The Congress and the several States shall have  
 47 the concurrent power to enforce this article by appropriate legislation.” The 21<sup>st</sup> Amendment did not include such an  
 48 enforcement clause as the 21<sup>st</sup> Amendment was not conveying a new power to Congress, but in fact was adding a limitation  
 49 on the power of Congress. Nor does the 16<sup>th</sup> Amendment have an enforcement clause, as it does not convey a new power to  
 50 Congress, but only clarifies a theory of taxation. That theory was the basis for the *Pollock Decision*. The *Pollock Decision*  
 51 was overturned by the 16<sup>th</sup> Amendment.

1 Congress did not modify the direct taxation clauses of the Constitution by the construction of the 16<sup>th</sup> Amendment. Therefore,  
 2 the 16<sup>th</sup> Amendment does not provide authority for a direct tax on sources of income which enjoy constitutional protection.  
 3 (Some sources of income do not enjoy constitutional protection, like income derived from sources without (outside) the  
 4 several States of the Union.) Therefore, there is no authority for Congress to tax one of the several States of the Union, unless  
 5 that tax is apportioned.<sup>41</sup>

### 6 3.8.11.3 Understanding the 16th Amendment<sup>42</sup>

7 by Otto Skinner

8 How can it be said that an "income" tax (or taxation **on** income) is an indirect excise tax which is not on the tangible fruit,  
 9 but **on** the happening of an event; that the income is not the **subject of** the tax, but that it is an excise tax which is collected  
 10 from certain activities and privileges which is measured by reference to the income which they produce? How can all this be  
 11 said and still call it taxation **on** income? How can the Internal Revenue Code state that there is hereby imposed **on** the taxable  
 12 income, if the income is not the **subject of** the tax; if the income is not the thing being taxed? How can it be said that taxes  
 13 **on** personal property are subject to the requirement of apportionment, when the "income" tax is not apportioned? Isn't your  
 14 income your personal property? (Of course it is.) How is it possible for the United States Supreme Court, the lower courts,  
 15 the Congressional record, the original Constitution, the Sixteenth Amendment, and the Internal Revenue Code to each make  
 16 one or more of the following statements without them collectively being terribly inconsistent? Without one statement being  
 17 in irreconcilable conflict with another?

- 18 A. The conclusion reached in the *Pollock Case* recognized the fact that taxation **on** income was in its nature an excise  
 19 entitled to be enforced as such;<sup>1</sup>
- 20 B. The Sixteenth Amendment simply prohibited the power of income taxation from being taken out of the category of  
 21 indirect taxation;<sup>2</sup>
- 22 C. The Congress shall have power to lay and collect taxes on incomes ... without apportionment among the several  
 23 States;<sup>3</sup>
- 24 D. The Amendment contains nothing repudiating or challenging the ruling in the *Pollock Case*;<sup>4</sup>
- 25 E. The requirement of apportionment is pretty strictly limited to taxes on real and personal property and capitation  
 26 taxes;<sup>5, 11</sup>
- 27 F. Indirect taxes are laid upon the happening of an event as distinguished from its tangible fruits;<sup>6</sup>
- 28 G. The income is not the subject of the tax: it is the basis for determining the amount of tax;<sup>7</sup>
- 29 H. Excise taxes are in the class of indirect taxes;<sup>1, 2, 8</sup>
- 30 I. Excise taxes are collected from the same activities as those reached by the States;<sup>9</sup> and,
- 31 J. There is hereby imposed on the taxable income;<sup>10</sup>

32 How can it appear that the so-called "income" tax is imposed **on** property (income), and yet say the income is not the **subject**  
 33 **of** the tax? If the income (property) is not the thing being taxed, why does it appear that way in the Sixteenth Amendment  
 34 and in the Internal Revenue Code?

35 All of this doesn't even make any sense, unless there is a particular definition for the word "on" which is being used in the  
 36 Sixteenth Amendment and the Internal Revenue Code whenever phrases such as "taxation **on** incomes" or "a tax **on** income"  
 37 or "there is hereby imposed **on** the taxable income" are stated; a special definition for the word "**on**" of which most people  
 38 are not even aware.

39 One of the definitions given in *Webster's Seventh New Collegiate Dictionary* (1971) shows that the word "on" means "with  
 40 regard or respect to". The dictionary also shows that the word "regard" means "an aspect to be taken into consideration".  
 41 So the Sixteenth Amendment could just as easily read as follows:

42 *Congress shall have power to lay and collect taxes with regard to or with respect to or in consideration of or*  
 43 *measured by the income, from whatever source derived, without apportionment among the several States, and*  
 44 *without regard to any census or enumeration.*

<sup>41</sup> Congress could by statute define the earned income of an elected or appointed government employee to be "wages." Then Congress could levy an income tax on these "wages" as this would be a tax on a privilege; the privilege being employment by the federal government. Such a tax is entirely constitutional.

<sup>42</sup> <http://www.ottoskinner.com/a-breakthrough.html>.

1 The above definitions reasonably and logically explain Chief Justice Edward Douglas White's statements in the *Brushaber*  
 2 and *Stanton Cases* regarding taxation **on** income, wherein he explained that taxation on income was in its nature an indirect  
 3 excise.

4 But let's dig a little further. Let's see what some other well respected dictionaries have to say.

5 **on** ... 22. a. In regard to, in reference to, with respect to, as to.

6 *The Oxford English Dictionary*, Second Edition, 1989, pg. 795.

7  
 8 **on** ... 12. with respect or regard to.

9 *Random House Unabridged Dictionary*, Second Edition, 1993, pg. 1352.

10  
 11 **on** ... (5) the object in connection with which payment, computation of interest, reduction or similar settlement is made. ... 7

12 a : with regard to : with reference or relation to : about.

13 *Webster's Third New International Dictionary of the English Language*, Unabridged, 1993, pg. 1575.

14 As used in the phrase "taxes **on** incomes", only if the word "**on**" means "with reference to" (the income which is to be used  
 15 to measure the amount of tax due from indirect taxes such as duties, imposts and excises) can it be explained that the income  
 16 (property) is not the thing being taxed, but that it is on some taxable activity upon which an excise can be imposed. This is  
 17 the only way to explain how Chief Justice Edward Douglas White could justifiably state in *Brushaber* and *Stanton* that  
 18 taxation **on** income was in its nature an excise tax and that the Sixteenth Amendment simply prohibited the power of income  
 19 taxation from being taken out of the category of indirect taxation to which it inherently belongs.

20 Of course, this now clearly opens the way for the question as to which activity, if any, has there been an excise tax imposed,  
 21 and which section of the Internal Revenue Code, if any, imposes a tax on that activity. It certainly raises the question now as  
 22 to which of your activities, if any, would make you **subject to (liable for)** this tax which is merely called an "income" tax.

23 Is learning of a special definition for the word "**on**" really the biggest breakthrough of the century to being able to understand  
 24 the language of the Sixteenth Amendment? You already have my opinion. What do you think? Ask your friends. What do  
 25 they think? Maybe you can find an English professor's professor who will give an expert opinion on the issue. If you do, let  
 26 me know what he or she says. Of course, the professor will have to understand that the United States Supreme Court has  
 27 ruled that the "income" tax is an excise, that excise taxes are collected from activities, that the property is never the thing  
 28 being taxed by an excise tax, and that property taxes (on real and personal property) must still be apportioned among the  
 29 States according to population. Once he or she understands these facts, it should be easy to render an expert opinion regarding  
 30 this special definition for the word "on" as used in the Sixteenth Amendment.

31 If this really is a valid conclusion, then this is information regarding the so-called "income" tax and the Sixteenth Amendment  
 32 that the entire nation desperately needs.

### 33 Footnotes.

34  
 35 1. Moreover in addition the conclusion reached in the *Pollock Case* did not in any degree involve holding that income  
 36 taxes generically and necessarily came within the class of direct taxes on property, but on the contrary recognized the  
 37 fact that taxation on income was in its nature an excise entitled to be enforced as such....

38 *Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1, at 16-17 (1916). (Emphasis added.)

39  
 40 2. [B]y the previous ruling [*Brushaber Case*] it was settled that the Sixteenth Amendment conferred no new power of  
 41 taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress  
 42 from the beginning [of our national government under the Constitution] from being taken out of the category of  
 43 indirect taxation to which it inherently belonged....

44 *Stanton v. Baltic Mining Co.*, 240 U.S. 103 (1916), at 112. (Emphasis and explanation added.)

45  
 46 3. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without  
 47 apportionment among the several States, and without regard to any census or enumeration.

48 *United States Constitution, Sixteenth Amendment.*

- 1 4. The Amendment contains nothing repudiating or challenging the ruling in the *Pollock Case*....  
 2 *Brushaber, supra*, at 19. (Emphasis added.)  
 3
- 4 5. Indeed, the requirement for apportionment is pretty strictly limited to taxes on real and personal property and capitation  
 5 taxes.  
 6 *Penn Mutual Indemnity Co. v. C.I.R.*, 277 F.2d. 16, at 19-20 (3rd Cir. 1960). (Emphasis added.)  
 7
- 8 6. A tax laid upon the happening of an event, as distinguished from its tangible fruits, is an indirect tax.  
 9 *Tyler v. United States*, 281 U.S. 497, at 502 (1930).  
 10
- 11 7. "The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and  
 12 privileges which is measured by reference to the income which they produce. The income is not the subject of the tax:  
 13 it is the basis for determining the amount of tax."  
 14 *House Congressional Record*, March 27, 1943, p. 2580.  
 15
- 16 8. "The Congress shall have power to lay and collect taxes, duties, imposts and excises." Art. 1, § 8. If the tax is a direct  
 17 one, it shall be apportioned according to the census or enumeration. If it is a duty, impost, or excise, it shall be uniform  
 18 throughout the United States. Together, these classes include every form of tax appropriate to sovereignty.  
 19 *Steward Machine Co. v. Davis*, 301 U.S. 548, at 581 (1937).  
 20
- 21 9. We must remember, too, that the revenues of the United States must be obtained in the same territory, from the same  
 22 people, and excise taxes must be collected from the same activities. as are also reached by the States in order to support  
 23 their local government.  
 24 *Flint v. Stone Tracy Co.*, 220 U.S. 107, at 154. (Emphasis added.)  
 25
- 26 10. There is hereby imposed on the taxable income of-[every individual]  
 27 26 U.S.C. §1. (In part. Emphasis and explanation added.)  
 28
- 29 11. Our conclusions may, therefore, be summed up as follows:  
 30
- 31 First...
- 32 We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes  
 33 on the rents or income of real estate are equally direct taxes.
- 34 Second...
- 35 We are of opinion that taxes on personal property, or on the income of personal property, are likewise direct  
 36 taxes.
- 37 Third...
- 38 The tax imposed by sections twenty-seven to thirty-seven, inclusive, of the act of 1894, so far as it falls on  
 39 the income of real estate and of personal property, being a direct tax within the meaning of the Constitution,  
 40 and, therefore, unconstitutional and void because not apportioned according to representation, all those  
 41 sections, consisting of one entire scheme of taxation, are necessarily invalid.  
 42 *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601, at 637 (1895). (Emphasis added.)

#### 43 3.8.11.4 History of the 16th Amendment

44 The ratification of this Amendment was the direct consequence of the Court's decision in 1895 in *Pollock v. Farmers' Loan*  
 45 *& Trust Co.*,<sup>43</sup> whereby the attempt of Congress the previous year to tax incomes uniformly throughout the United States<sup>44</sup>

<sup>43</sup> 157 U.S. 429 (1895); 158 U.S. 601 (1895).

<sup>44</sup> Ch. 349, Sec. 27, 28 Stat. 509, 553.

1 was held by a divided court to be unconstitutional. A tax on incomes derived from property, <sup>45</sup> the Court declared, was a  
 2 "direct tax" which Congress under the terms of Article I, Sec. 2, and Sec. 9, could impose only by the rule of apportionment  
 3 according to population, although scarcely fifteen years prior the Justices had unanimously sustained <sup>46</sup> the collection of a  
 4 similar tax during the Civil War, <sup>47</sup> the only other occasion preceding the Sixteenth Amendment in which Congress had  
 5 ventured to utilize this method of raising revenue. <sup>48</sup>

6 During the interim between the Pollock decision in 1895 and the ratification of the Sixteenth Amendment in 1913, the Court  
 7 gave evidence of a greater awareness of the dangerous consequences to national solvency which that holding threatened, and  
 8 partially circumvented the threat, either by taking refuge in redefinitions of "direct tax" or, and more especially, by  
 9 emphasizing, virtually to the exclusion of the former, the history of excise taxation. Thus, in a series of cases, notably *Nicol*  
 10 *v. Ames*, <sup>49</sup> *Knowlton v. Moore*, <sup>50</sup> and *Patton v. Brady*, <sup>9</sup> the Court held the following taxes to have been levied merely upon  
 11 one of the "incidents of ownership" and hence to be excises: a tax which involved affixing revenue stamps to memoranda  
 12 evidencing the sale of merchandise on commodity exchanges, an inheritance tax, and a war revenue tax upon tobacco on  
 13 which the hitherto imposed excise tax had already been paid and which was held by the manufacturer for resale.

14 Because of such endeavors the Court thus found it possible to sustain a corporate income tax as an excise "measured by  
 15 income" on the privilege of doing business in corporate form. <sup>51</sup> The adoption of the Sixteenth Amendment, however, put an  
 16 end to speculation whether the Court, unaided by constitutional amendment, would persist along these lines of construction  
 17 until it had reversed its holding in the Pollock case. Indeed, in its initial appraisal <sup>52</sup> of the Amendment it classified income  
 18 taxes as being inherently "indirect." "[T]he command of the amendment that all income taxes shall not be subject to  
 19 apportionment by a consideration of the sources from which the taxed income may be derived, forbids the application to such  
 20 taxes of the rule applied in the Pollock case by which alone such taxes were removed from the great class of excises, duties,  
 21 and imposts subject to the rule of uniformity and were placed under the other or direct class." <sup>53</sup> "[T]he Sixteenth Amendment  
 22 conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation  
 23 possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently  
 24 belonged." <sup>54</sup>

### 25 **3.8.11.5 Fraud Shown in Passage of 16th Amendment**

26 by Constitutional Attorney Larry Becraft  
 27 The National Educator, April 1989

28 The federal government and its tax agencies, supported by our congressmen, would like for us to believe that the power of  
 29 the government to tax was greatly changed by the ratification of the Sixteenth Amendment in February 1913. Having been  
 30 denied the right to tax incomes by a Supreme Court decision in 1895, Uncle Sam claims that, once this Amendment was  
 31 ratified, a constitutional deficiency was corrected by the Amendment and that after 1913, it had a legal right to claim a portion  
 32 of income of every American in taxes.

33 Ever since the ratification of the Fourteenth and Fifteenth Amendments after the Civil War, arguments were made that these  
 34 amendments were not legally ratified, but nobody ever did enough research to conclusively prove this contention in court.

<sup>45</sup> The Court conceded that taxes on incomes from "professions, trades, employments, or vocations" levied by this act were excise taxes and therefore valid. The entire statute, however, was voided on the ground that Congress never intended to permit the entire "burden of the tax to be borne by professions, trades, employments, or vocations" after real estate and personal property had been exempted, 158 U.S. at 635.

<sup>46</sup> *Springer v. United States*, 102 U.S. 586 (1881).

<sup>47</sup> Ch. 173, Sec. 116, 13 Stat. 223, 281 (1864).

<sup>48</sup> For an account of the Pollock decision, see supra, pp. 352- 56.

<sup>49</sup> 173 U.S. 509(1899).

<sup>50</sup> 178 U.S. 41 (1900).

<sup>51</sup> *Flint v. Stone Tracy Co.*, 220 U.S. 107(1911).

<sup>52</sup> *Brushaber v. Union Pac. R.R.*, 240 U.S. 1 (1916); *Stanton v. Baltic Mining Co.*, 240 U.S. 103 (1916); *Tyee Realty Co. v. Anderson*, 240 U.S. 115 (1916).

<sup>53</sup> *Brushaber v. Union Pac. R.R.*, 240 U.S. 1,18-19-19 (1916).

<sup>54</sup> *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112 (1916).

1 When the Sixteenth Amendment came along, popular support for the amendment and the very light taxes imposed as a  
2 consequence of the amendment were sufficient to prevent similar arguments that this amendment was not ratified. It was only  
3 when the income tax burden became almost unbearable and tax enforcement and collection turned ruthless that for the first  
4 time in American history someone decided to actually research and investigate the question of whether a federal amendment  
5 had legally and really been ratified.

6 In 1984, Bill Benson, a former investigator for the Illinois Department of Revenue, made the historical decision to research  
7 the question of whether the Sixteenth Amendment was legally ratified. Taking the government's list of States which  
8 purportedly adopted the amendment, Bill traveled to all 48 states in the Continental United States for the purpose of perusing  
9 Archives records to discover the story as to how each state acted upon the amendment.

10 In January and February 1984, Bill reviewed records in the New England states and discovered that, contrary to popular  
11 belief, these states had committed errors of such magnitude that they could not be counted as ratifying states. Buttressed by  
12 these amazing findings, he pushed onward through the remainder of the states, copying all official state documents that related  
13 to the ratification of the Amendment. By July 1984, Bill knew from the documents he possessed that the states had not legally  
14 ratified the amendment and that gross misconduct and fraud was involved.

15 In August 1984, Bill went to the National Archives in Washington, DC to find the federal government's records of how this  
16 amendment allegedly was ratified. Once discovered in a dusty bin in a hidden place in the National Archives, he opened a  
17 book made, probably in 1913, that contained all these documents. In a few minutes of reading, Bill learned that not only was  
18 there documented evidence disclosing fraudulent ratification, but there was conclusive proof that government officials knew  
19 of the fraud in 1913.

20 When Bill completed the research of the last state necessary in December 1984, he knew that the tax structure of the United  
21 States was built upon a fraud. He knew that the second state which supposedly ratified the amendment, Kentucky, truly voted  
22 against the amendment, 9 votes for the ratification and 22 against. He knew that California both changed the wording of the  
23 amendment (an unlawful act) and failed to vote on the amendment. He knew that the government was aware that 11 states  
24 had unlawfully changed the wording of the amendment. Under these circumstances, these facts made the Sixteenth  
25 Amendment a fraud. Thus, Bill was compelled to tell this story to the American people through the publication of two books,  
26 *The Law That Never Was*, Volumes I & II.

27 Volume 1 contains a very detailed state by state analysis, complete with page references to official documents of how this  
28 amendment failed to be ratified. Volume II contains lengthy chapters explaining the law regarding ratification of amendments,  
29 and the story of various cases heard in federal court where concerned Americans presented this issue. These two books have  
30 become so important that copies of them have been presented to every U.S. Congressman and federal judge.

31 While today courts here in America hold that this issue is one which cannot be resolved in court (they obviously do not want  
32 to see the facts), it must be remembered that other important issues in the past, such as the civil rights movement, took many  
33 years to be resolved. But, it is certain that if enough Americans become aware of the fact that the Sixteenth Amendment was  
34 fraudulently ratified, a change in the federal tax structure will surely result. \*\*End of article.

35 Well, you can see what the 535 congress critters and every federal judge in America did with their copies of the truth: Nothing.

36 For those of you just becoming aware of the mountain of lies heaped on the American people, Bill Benson and his wife have  
37 been destroyed by the government. YOUR government came after this man with a vengeance because of what he could and  
38 has exposed. Larry is quite correct: the cowards in our federal judiciary will not touch this provable fraud because of the  
39 ramifications to the big bankers. Mr. & Mrs. Bill Benson have the courage and fortitude that few Americans today would be  
40 able to muster up themselves. It is truly one of the most despicable cases of government destroying the messenger to stop the  
41 message. Thankfully, they have failed.

42 How could something like this have happened? One really must read *The Creature From Jekyll Island* by G. Edward Griffin  
43 to understand how people like the Rockefellers and others of their ilk, were determined from the git-go to lie, cheat and steal  
44 on their journey towards a one-world moral and financial order where they would all share in the spoils. As Larry said, a long  
45 time ago, people like Galileo were called liars and persecuted. Today it is 110 million adults who are forced with the firepower  
46 of the U.S. government pointed right at their head, to volunteer to file 1040 "income tax" forms.

1 The Law That Never Was (both volumes), Bill Benson and The Creature From Jekyll Island are both listed in the Reference  
2 Chapter 10 of this document.

3 And if that isn't enough to make you lose whatever faith you might have had in the integrity of the U.S. government, let me  
4 tell you about the other documents in my possession:

5 Straight from the archives in Baca County, Colorado and notarized, are the pages from the county's official records showing  
6 the original 13<sup>th</sup> Amendment to the U.S. Constitution, simply brushed aside after the Civil War and replaced with the current  
7 anti-slavery amendment.

8 Thousands of people have taken the time to get these certified documents and in fact, evidence apparently exists that they can  
9 be found in the archives of 25 other states. Do the congress critters know of this fraud? How can they not when thousands of  
10 people have sent them copies of these certified documents? How about state legislators? I know for a fact that hundreds of  
11 them have received these documents and the only response is the usual form letter. You see, they know that if they can smear  
12 their opponent effectively with the bushels of money they have as incumbents, they really don't give a fig. When will America  
13 figure this out?

14 For further information, you can obtain a copy of an entire book that systematically identifies the 16th Amendment fraud see  
15 the following book by a former Illinois Revenue Collector:

16 The Law That Never Was, Bill Benson  
17 <http://www.thelawthatneverwas.com/>

#### 18 **3.8.11.6 What Tax Is Parent To The Income Tax?**

19 We are now going to put the Sixteenth Amendment to the United States Constitution in its proper place in the main body of  
20 the Constitution. First, make certain that you have a government printed copy of the Constitution. Check the inside cover to  
21 see if there is this statement, "For sale by the U.S. Government Printing Office." If you received a copy of the Constitution  
22 and the Declaration of Independence with these instructions then you have a genuine government document.

#### 23 **3.8.11.7 Income Tax DNA - Government Lying, But Not Perjury?**

24 Now, find each of the taxing clauses we cited above and see what changes have been made. You won't see a single, "\*Changed  
25 by the Sixteenth Amendment" with reference to any taxing clauses cited here. For example, you will see, "\*Changed by the  
26 Seventeenth Amendment," "\*Changed by the Thirteenth Amendment"; "\* Changed by the Fourteenth Amendment"; but you  
27 won't see that with reference to the Sixteenth Amendment because it didn't change anything in the Constitution. "\*See  
28 Sixteenth Amendment." This is the reference you see at the end of Article I, Section 9, Clause 4, in my Bicentennial Edition  
29 of the Constitution. This raises the question: Who is responsible for the asterisk and the note in this copy of the Constitution?  
30 This can be an interesting research project for a conscientious student. The reason the asterisk is there is, of course, because  
31 someone in the federal government wants you to believe the income tax is the unapportioned bastard child of a direct tax. It  
32 is not.

#### 33 **3.8.11.8 More Government Lying, Still Not Perjury?**

34 We have another edition of the Constitution, published by the Library of Congress in association with the Arion Press, that  
35 makes no Sixteenth Amendment reference at all to any part of the Constitution but all other amendment references remain.  
36 This must be taken as an admission by the government that the Sixteenth Amendment did only one thing with reference to  
37 Article I, Section 9, Clause 4: Established that an income tax cannot be a direct tax. United States Code Annotated (USCA)  
38 makes this reference: Affected by the Sixteenth Amendment.

#### 39 **3.8.11.9 There Can Be No Unapportioned Direct Tax**

40 Such an unapportioned direct tax is an impossibility. To do so would create a new tax not subject either to the rule of  
41 apportionment or the rule of uniformity. This is hardly a revelation, since a law student pointed this out in a note in the 1909  
42 Harvard Law Review, shortly after Congress approved what would become the Sixteenth Amendment. Years later Chief  
43 Justice White would affirm the consequences of such contention in, *Brushaber v. Union Pacific R.R.*, 240 U.S. 1 (1916). You

1 will read and re-read Supreme Court cases that intone the fact that the Sixteenth Amendment did not create any new taxing  
 2 authority. Chief Justice White is fond of saying Congress has always had the power to tax incomes. He, of course, never  
 3 mentioned the excise tax. What he, also, fails to mention is that the federal government does not possess the general police  
 4 power. This is the inherent power of the several states to rule. The importance of the power will be realized when  
 5 consideration is given to the requirements for the creation of new excises.

### 6 **3.8.11.10 The Four Constitutional Taxes**

7 *"And although there may have been from time to time intimations that there might be some tax which was not a*  
 8 *direct tax nor included under the words "duties, imposts and excises," such a tax has yet remained undiscovered,*  
 9 *notwithstanding the stress of particular circumstances has invited thorough investigation into sources of*  
 10 *revenue."*  
 11 *[Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429 (1895), 557, Thomas v. United States (1903) 192 U.S. 363,*  
 12 *370]*

13 Congress, when taxing within the states of the Union, may only tax using four taxes, which are subject to two rules. Direct  
 14 taxes must be apportioned and imposts, duties and excises have to be geographically uniform throughout the several states.  
 15 These tax facts are absolutely certain when we speak of taxation within the states of the Union. Hold up your hand. Count  
 16 your fingers. Four taxes, no more than four Taxes. Not in the United States of America. No more than four. If it's not one of  
 17 the four you don't have to pay it.

### 18 **3.8.11.11 Oh, What Tangled Webs We Weave...**

19 If you learn only one thing from this document, it has to be this: the income referred to in the Sixteenth Amendment comes  
 20 from the excises in Article I, Section 8, Clause 1, of the Constitution. The "sources" in the amendment are various excises for  
 21 the government and not different ways of making money for the Citizen. Are you going to believe me or that White guy, who  
 22 leaves things out and doesn't tell the truth? The Chief Justice White, not our current President. Go back to Brushaber and  
 23 Stanton and you will find everything that White ascribes to the Amendment fits this explanation but without the confusion.  
 24 "White man speaks with forked tongue". One of White's early law partners claimed he "spun out an argument so fine a spider  
 25 could not get through."

### 26 **3.8.11.12 Enabling Clauses**

27 Before and after the purported ratification of the Sixteenth Amendment other amendments were adopted that did change the  
 28 Constitution. The expansion of Congressional power was evidenced by an enabling clause such as this one from the Thirteenth  
 29 Amendment, adopted in 1865. That part of the Amendment that gives Congress the power to pass new laws states:

30 *Section 2. Congress shall have power to enforce this article by appropriate legislation.*

31 This very clause is found in the Fourteenth, Fifteenth, Eighteenth, Nineteenth, Twenty-Third, Twenty-Fourth, and Twenty-  
 32 Sixth Amendments, which assuredly granted new power to Congress. Its absence from the Sixteenth Amendment clearly  
 33 indicates that no new power was being given to Congress. Several Supreme Court cases held the same thing.

34 The Sixteenth Amendment is an amendment that changes nothing in the Constitution. This is my legal opinion of the impact  
 35 of the amendment on the Constitution and on you; Congressional taxation of income is limited to the income produced from  
 36 the activities of an excise in Article I, Section 8, Clause 1. To make my opinion absolutely clear, the only income that can be  
 37 taxed after the ratification of the Sixteenth Amendment is the income that results from an excise.

### 38 **3.8.12 Additional research facts on documentation relating to the ratification of the Sixteenth Amendment**

39 The content of this section was brought to our attention by a dedicated tax researcher and his discoveries were so revealing,  
 40 we just had to repeat them here.

41 The U.S. Statutes at Large, 62nd Congress, Volume 37 has two parts. Part 1 has the public acts and part two has the Private  
 42 acts. Philander Knox' resolution declaring the 16th amendment as having been ratified is contained in Part 2, not Part 1, where  
 43 we expected it to be. Which, would seem to prove the fact that the 16th Amendment is private municipal law applicable to  
 44 D.C. even though it appears in the Constitution. He had to have known that it was not lawfully ratified.

1 The Table of Contents for the Statutes at Large, on page XIV, asserts:

2 *"Certificate of adoption of the Sixteenth Amendment to the Constitution" ..... page 1785"*

3 Note that the Table of Contents does not use the term "ratification".

4 However, and this is confusing, in the back of the volume, on page 2104 of the index, under the term "Taxes, Internal  
5 Revenue", it asserts,

6 *"certificate of ratification of Amendment to Constitution authorizing Congress to levy. . . . . page 1785"*

7 This same above phraseology is used on page 2088 of the Index. Anyway, the fact that Congress published it in Part 2 instead  
8 of Part 1, is, in my view, very significant. But it gets better.

9 There is also U.S. Gov't book in the Government Documents section of the law library, called Senate Miscellaneous  
10 Documents, 71st Congress, 3rd Session, and Senate Document 240 has two Tables that depict which states ratified the 16th  
11 amendment and it shows that the 16th Amendment was NOT ratified.

### 12 **3.9 U.S. Code (U.S.C.) Title 26: Internal Revenue Code (IRC)**

13 *"The Tax Code is a monstrosity and there's only one thing to do with it. Scrap it, kill it, drive a stake through its  
14 heart, bury it and hope it never rises again to terrorize the American people."  
15 [Steve Forbes ]*

16 The U.S. Code consists of laws enacted by the Congress of the United States. There are 50 "titles" or sections in the U.S.  
17 Code, each addressing a different subject. Title 26 of the U.S. Code is known as the Internal Revenue Code (IRC), and it  
18 governs how excise and income taxes are administered in the United States of America.

19 For each title, there is a corresponding title in the Code of Federal Regulations (C.F.R.). The U.S. Codes supersede regulations  
20 found in the Code of Federal Regulations where any conflicts are found to exist. This fact is important whenever you get  
21 into a tussle with the IRS. The main purpose of the Code of Federal Regulations (C.F.R.) is to administratively implement  
22 the laws found in the U.S. Code in a way that is consistent with all case law known to date. The only thing superior to the  
23 U.S. Code is the Statutes at Large, and U.S. Constitution supersedes all law because it is "the supreme law of the land."

24 The Office of the Law Revision Counsel of the U.S. House of Representatives prepares and publishes the United States Code  
25 pursuant to section 285b of title 2 of the Code. The Code is a consolidation and codification by subject matter of the general  
26 and permanent laws of the United States.

27 The Code does not include regulations issued by executive branch agencies, decisions of the Federal courts, treaties, or laws  
28 enacted by State or local governments. Regulations issued by executive branch agencies are available in the Code of Federal  
29 Regulations. Proposed and recently adopted regulations may be found in the Federal Register.

30 Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title 1 of the Code, the text of  
31 those titles is legal evidence of the law contained in those titles. The other titles of the Code are prima facie evidence of the  
32 laws contained in those titles. The following titles of the Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 13,  
33 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 44, 46, and 49. For all other titles which are not positive law, the only real law  
34 is the Statutes at Large which these titles implement.

35 The important thing to remember about the U.S. Codes is that they began existence in the year 1926. Before that, all laws of  
36 Congress were published only in the Statutes at Large. These accumulated statutes were "codified", or made into the U.S.  
37 Code, starting in 1926. Those titles of the U.S. Code that are enacted in total into "positive law" supersede and replace all  
38 the Statutes at Large sections from which they were compiled and usually, when the enactment occurs, the preceding statutes  
39 in the Statutes at Large are collectively repealed. Titles of the U.S. Code which have not been enacted into positive law stand  
40 as only "prima facie evidence of law". Any statute cited out of a title in the U.S. Code that has not enacted into positive law  
41 may be challenged and nullified in a court of law if it can be shown that the Statute at Large which it implements is in conflict  
42 with it. This is very important because *none* of the Internal Revenue Code in Title 26 is positive law, but stands only as prima  
43 facie evidence of law, which means that the Statutes at Large control and supersede. Not only that, but the Statutes at Large,  
44 in many cases, are written in much more specific and clear language than the U.S. Code, which makes them an excellent tool

for resolving ambiguity and vagueness in the U.S. Codes. An example of where such vagueness occurs is in the frequent use of the word “includes”. You can find out what parts of the Statutes at Large a section of the U.S. Code was derived from by examining the annotations and change history. The best source for annotated U.S. Code is the U.S. Codes Annotated (U.S.C.A.), which you can get online or from any law library.

Titles 1 to 17 are based on Supplement V (January 23, 2000) to the 1994 edition of the Code. Titles 18 to 50, the Organic Laws, the Table of Popular Names, and Tables I-IX are based on Supplement IV (January 5, 1999) to the 1994 edition of the Code. Each section of the Code database contains a date in the top-right corner indicating that laws enacted as of that date and affecting that section are included in the text of that section. When a search is made for a specific section of the Code, as opposed to a search for certain words appearing in the Code, the hit list will include an “Update” item listing any amendments not already reflected in the text of that section.

The Classification Tables include Public Law 106-1 through Public Law 106-397 and 106-399 through 106-466, approved November 7, 2000. The tables show where recently enacted laws will appear in the Code and which sections of the Code have been amended by those laws. They provide a separate method of identifying any amendments to a section not already reflected in the text of that section.

The complete online version of the U.S.C. can be found at the following website:

<http://www4.law.cornell.edu/uscode/>

The table below shows a high-level breakdown of the Internal Revenue Code:

**Table 3-4: Organization of the Internal Revenue Code**

<i>Tax or Topic</i>	<i>Subtitle</i>	<i>Chapters</i>	<i>Sections</i>	<i>Tax Class (as used in your Individual Master File, or IMF)</i>
Income Taxes	A	1 to 6	1	2
Estate and Gift Taxes	B	11 to 13	2001	5
Employment Taxes	C	21 to 25	3101	1
Miscellaneous Excises	D	31 to 47	4041	4
Alcohol, Tobacco, and Certain Other Excises	E	51 to 54	5001	4
Procedure Administration	F	61 to 80	6001	NA
Joint Committee on Taxation	G	91 to 92	8001	NA
Financing Presidential Election Campaigns	H	95 to 96	9001	NA
Trust Fund Code	I	98	9500	NA

### 3.9.1 “Words of Art”: Lawyer Deception Using Definitions

*“The wicked man does deceptive work,  
But to him who sows righteousness will be a sure reward.  
As righteousness leads to life,  
So he who pursues evil pursues his own death.  
Those who are of a perverse heart are an abomination to the Lord,  
But such as are blameless in their ways are a delight.  
Though they join forces, the wicked will not go unpunished;  
But the posterity of the righteous will be delivered.”  
[Prov. 11:18-21, Bible, NKJV]*

*“Integrity without knowledge is weak and useless, and knowledge without integrity is dangerous and dreadful.”  
[Samuel Johnson Rasselas, 1759]*

1                   *"Beware lest anyone cheat you through philosophy and empty deceit, according to the tradition of men, according*  
 2 *to the basic principles of the world, and not according to Christ."*  
 3 *[Colossians 2:8, Bible, NKJV]*

4                   *"[J]udicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our*  
 5 *government of laws with a judicial oligarchy."*  
 6 *[Senator Sam Ervin, of Watergate Hearing fame]*

7 Does anyone like politicians or the lawyers who write deceptive laws for them? After you read this section, you'll have even  
 8 less reason to like them! The Internal Revenue Code ("IRC", also called 26 U.S.C.) is a masterpiece of deception designed  
 9 by greedy and unscrupulous IRS lawyers to mislead Citizens into believing that they are subject to federal income tax. Most  
 10 of the deception is perpetrated using specialized definitions of words. The Code contains a series of directory statutes using  
 11 the word "shall", with provisions that are requirements for corporations, trusts, and other "legal fictions" but not for natural  
 12 persons (you and me). Even members of Congress are generally unaware of the deceptive legal meanings of certain terms  
 13 that are consistently used in the IRC. These terms have legal definitions for use in the IRC that are very different from the  
 14 general understanding of the meaning of the words. Such terms are called "words of art". This situation is quite deliberate,  
 15 and no accident at all.

16 Let's start this section by defining the term "definition":

17                   ***definition:** A description of a thing by its properties; an explanation of the meaning of a word or term. The*  
 18 *process of stating the exact meaning of a word by means of other words. Such a description of the thing defined,*  
 19 *including all essential elements and excluding all nonessential, as to distinguish it from all other things and*  
 20 *classes."*  
 21 *[Black's Law Dictionary, Sixth Edition, p. 423]*

22 Lack of knowledge of legal definitions used in the Internal Revenue Code causes false presumption by uninformed Americans  
 23 who are confused as to the correct interpretation of both the IRC and the true meaning of the tricky wording in IRS  
 24 instructional publications and news articles. *However, when you understand the legal definitions of these terms, the deception*  
 25 *and false presumption is easily recognized and the limited application of the Code becomes very clear.* This understanding  
 26 will help you to see that filing income tax forms and paying income taxes must be voluntary acts for most Americans  
 27 domiciled in states of the Union because the United States Constitution forbids the federal government to impose any tax  
 28 directly upon individuals.

29 Most terms used within 26 U.S.C, which is the Internal Revenue Code, appear in Chapter 79, Section 7701. Anything having  
 30 to do with employer withholding is defined in 26 U.S.C. §3401.

31 ***WARNING!: It is extremely important that you read and understand these definitions before you***  
 32 ***begin interpreting the tax codes! Deceiving definitions are the NUMBER ONE way that lawyers use***  
 33 ***to trick and enslave us so we should always question the meaning of words before we start trying to***  
 34 ***interpret the laws they write!***

35 ***Another popular lawyering technique is to use words which are undefined. This has the effect of***  
 36 ***encouraging uncertainty, conflict, and false presumption in the application of the law, which***  
 37 ***increases litigation, which in turn makes the legal profession more profitable for the lawyers who***  
 38 ***write the laws and judges who enforce the laws after they leave public office and go back into private***  
 39 ***practice. Doesn't that seem like a conflict of interest and an abuse of the public trust for private gain?***  
 40 ***It sure does to us!***

41 For your edification, we have prepared a library of definitions on our website in the [Sovereignty Forms and Instructions](#)  
 42 [Online](#), Form #10.004 that you can and should refer to frequently at:

43 <http://famguardian.org/TaxFreedom/FormsInstr.htm>

44 Click on "Cites by Topic" in the upper left corner to see our library of carefully researched definitions. This will allow you  
 45 to see clearly for yourself how the conniving lawyers inhabiting the District of Columbia (Washington, D.C., or the "District  
 46 of Criminals" as Mark Twain calls it) enticed us into slavery in violation of the [Thirteenth Amendment](#) and [18 U.S.C. §1581](#)

**The Great  IRS Hoax: Why We Don't Owe Income Tax, version 4.54**

**TOP SECRET: For Official Treasury/IRS Use Only (FOUO)**

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1 by using deceiving definitions. Then these evil lawyers tried to cover-up their trick by violating our [Fifth Amendment](#) right  
2 of due process by adding the word “includes” to those definitions that were most suspect, like the following:

- 3 1. Definition of the term “State” found in [26 U.S.C. §7701\(a\)\(10\)](#) and [4 U.S.C. §110](#)
- 4 2. Definition of the term “United States” found in [26 U.S.C. §7701\(a\)\(9\)](#)
- 5 3. Definition of the term “employee” found in [26 U.S.C. §3401\(c\)](#) and [26 C.F.R. §31.3401\(c\)-1](#) Employee
- 6 4. Definition of the term “person” found in [26 C.F.R. §301.6671-1](#) (which governs who is liable for penalties under Internal  
7 Revenue Code)

8 What Congress did by defining the word “includes” the way they did was give the federal courts so much “wigggle” room and  
9 license that they could define the IRC and federal tax jurisdiction *any way they want*, which transformed our government  
10 from a society of laws to a society of men, in stark violation of the intent of our founding fathers and of the Fifth and Sixth  
11 Amendment, and the “void for vagueness” doctrine:

12 *“The government of the United States has been emphatically termed a government of laws, and not of men. It*  
13 *will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested*  
14 *legal right.”*  
15 *[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803)]*

16 See sections 3.9.1.8 and 5.6.17 if you would like to learn more about how they perpetrated this fraud and hoax with the word  
17 “includes”.

18 The definitions found in the U.S. Code apply NOT ONLY to the U.S. Code, but also to the Code of Federal Regulations  
19 (C.F.R.’s), which are the implementing regulations for the U.S. Code, and the IRS Publications, which are guidelines to  
20 Americans that implement these regulations. The definitions in the U.S. Code in effect supersede and in some cases are  
21 repeated or are modified and expanded by the Code of Federal Regulations and the IRS Publications. Incidentally, doesn't it  
22 seem strange that the DEFINITIONS, which describe what all of the Code means, are almost at the END of the code, instead  
23 of the beginning? Most other contracts and legal documents always START with the definitions first, and usually define ALL  
24 words open to confusion to prevent misinterpretation. Not so with the I.R.C. They leave the word "individual" undefined,  
25 for instance, because they don't want you knowing what "individual" is, since it appears on your 1040 income tax form.  
26 Wonder why they do this instead of just calling you a “Citizen”? Could it possibly be that the slick lawyers in the congress  
27 hope you won't wade through 9,500 pages of Code to get to the definitions and that you will run out of energy and interest  
28 before you read them? Are they trying to HIDE something? It is important to note that proper and clear definitions of these  
29 deceptive words *never* appear in any of the IRS publications, and this is part of the Great Deception we have talked about  
30 throughout this document.

31 As you read through these masterfully crafty deceits and definitions of IRS lawyers listed below and appearing in the Infernal  
32 (written by Satan directly from hell?), I mean Internal Revenue Code (I.R.C., 26 U.S.C), ask yourself the following questions  
33 and critically consider the most truthful answers according the I.R.C. We compare the various definitions for each word to  
34 show you how it has been abused to cause deceit. You are probably going to be mad as hell (like I was) when you find out  
35 the trick these crafty IRS lawyers have played on you. Below are just a few examples of how these depraved, corrupt,  
36 arrogant, and power-hungry lawyers have used “legalese” to deceive you. The answers we give in the third column assume  
37 you are the average American domiciled in one of the 50 Union states and not one of the federal territories that are part of  
38 the “federal zone”, which is subsequently explained in section 4.5.3:  
39

Table 3-5: Questions to Ask and Answer as You Read the Internal Revenue Code

#	Question (using legal definitions)	Translation to everyday language ("non-legalese")	Answer (in most cases)
1	Am I an "employee"?	Do I hold a privileged federal "public office" that depends exclusively on rights and privileges granted to me by the citizens who elected or appointed me?	NO. Under the case of <i>Sims. v. Ahrens</i> , 271 S.W. 720, people with everyday skills, trades, or professions or who do not work for the federal government are not considered to be employees as per the I.R.C., and therefore are not subject to "withholding".
2	Do I have "gross income" or "taxable income"?	Do I as a corporation have profit subject to indirect excise ?	NO. See: 1. <i>Eisner v. Macomber</i> , 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920); 2. <i>Doyle v. Mitchell Brothers Co.</i> , 247 U.S. 179, 185, 38 S.Ct. 467 (1918); 3. <i>Stratton's Independence v. Howbert</i> , 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913):
3	What is an "individual" as indicated on my "1040 Individual Income Tax Return"?	What is an "individual" as indicated on my "1040 Individual Income Tax Return"?	One of the following: 1. A corporation, an association, a trust, etc. chartered in the District of Columbia with income subject to excise taxes . 2. An alien as identified in 26 C.F.R. §1.1441-1(c).
4	Am I a "taxpayer" under Subtitle A of the Internal Revenue Code?	Am I a person who is "liable" for paying income taxes as per the I.R.C Subtitle A?	<b>NO.</b> The only persons liable (under Section 1461) of Subtitle A of the I.R.C. for <u>anything</u> are withholding agents as defined in 26 U.S.C. §7701(a)(16). These withholding agents are transferees for U.S. government property under 26 U.S.C. §6901 and they are "returning" (hence the name "tax return") monies <u>already owned</u> by the U.S. Government and being paid out to nonresident aliens who are elected or appointed officers of the United States Government as part of a pre-negotiated and implied employment agreement. Because the monies they are withholding <u>already</u> belong to the U.S. government even after they are paid out, the withholding agent is liable to return these monies. For private individuals who are not nonresident aliens in receipt of pay as an elected or appointed officer of the U.S. government, all "taxes" falling under Subtitle A are voluntary, which is to say that they are <u>donations</u> and not taxes. However, if you "volunteer" by submitting a tax return or instituting voluntary withholding using a W-4 form, you are referred to as a

#	Question (using legal definitions)	Translation to everyday language ("non-legalese")	Answer (in most cases)
			"taxpayer" because you made yourself "subject to" the tax code voluntarily and therefore are "presumed" to be liable under 26 C.F.R. §31.3401(a)-3. This artificial liability is then created in your IRS Individual Master File (IMF) by IRS agents committing deliberate fraud during data entry into their IDRS computer system. See Section 2.4.8 of the <u>Sovereignty Forms and Instructions Manual</u> , Form #10.005 for further details on how to expose this IMF fraud.
5	Am I a "tax payer"?	Have I unwittingly deceived the I.R.S. and the U.S. government, by my own ignorance and unknowing falsification on my 1040 income tax return, into thinking that I am a "taxpayer"?	<b>YES.</b> In most cases, people file and pay income taxes and erroneously label themselves as being "taxpayers" because of their own ignorance and the total lack of sources for truth about who are "taxpayers".
6	Am I an "employer"?	Am I someone who pays the salary and wages of an elected or appointed federal political officer?	<b>NO</b>
7	"Must" I pay income taxes.	<ol style="list-style-type: none"> <li>1. Do I have the "IRS" permission to "volunteer" to pay income taxes, even though I don't have to.</li> <li>2. "May" I pay income taxes I'm not obligated to pay, please?</li> </ol>	Definitely!
8	Do I live in a "State" or the "United States"?	Do I live in the District of Columbia, Puerto Rico, Guam, the Virgin Islands, or any other U.S. federal territory or enclave within the boundaries of a state which the residents do NOT have constitutional protections of their rights (see <i>Downes v. Bidwell</i> , 182 U.S. 244 (1901)) and are therefore subject to federal income taxes?	<b>NO</b>
9	Do I make "wages" as an "employee"?	Do I receive compensation for "personal services" from the U.S. government as an elected or appointed political officer NOT practicing an occupation of common right?	<b>NO</b>
10	Am I a "withholding agent" per the tax code?	Do I pay income to an elected or appointed officer of the U.S. government who has requested withholding on their pay or to a nonresident alien or corporation with U.S (federal zone) source income?	<b>NO</b>
11	Am I a "citizen of the United States" or a resident of the United States?	Was I born or naturalized in the District of Columbia or other federal territory or enclave or do I live there now?	<b>NO</b>
12	Am I a "national" under 8 U.S.C. §1101(a)(21) but not a statutory "citizen of the United States" under 8 U.S.C. §1401?	Was I born in one of the 50 Union states outside of federal lands within those states?	<b>YES</b>

#	Question (using legal definitions)	Translation to everyday language ("non-legalese")	Answer (in most cases)
13	Do I conduct a "trade or business" in the "United States"?	Do I hold elected or appointed public office for the U.S. government in the federal United States or federal zone and thereby receive excise taxable privileges from the U.S. government?	NO
14	Do I make "gross income" derived from a "taxable source" as defined in 26 U.S.C. §§861 or 862?	Do I derive income from a privileged corporation that is registered and resident in the "federal zone" or from the U.S.** government as an elected or appointed political official or officer of a U.S.** Corporation?	NO
15	Do I perform "personal services"?	Am I an elected or appointed official of the U.S. government who receives a salary for my job?	NO

1 Jesus warned us that a thief would come to kill and hurt and destroy us by devious means, and this thief is our own government  
2 and the legal profession!:

3 *"Most assuredly, I say to you, **he who does not enter the sheepfold by the door, but climbs up some other way, the same is a thief and a robber.** But he who enters the door is the shepherd of the sheep.....**The thief does not come except to steal, and to kill, and to destroy.** I have come that they may have life, and that they may have it more abundantly."*  
4  
5  
6  
7 *[John 10:1-9, Bible, NKJV]*

8 James Madison, one of our Founding Fathers, also warned us of the above fraud in the Federalist Papers, when he wrote:

9 *"The internal effects of a mutable policy are still more calamitous. **It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?**"*  
10  
11  
12  
13  
14

15 ***Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uniformed mass of the people. Every new regulation concerning commerce or revenue, or in any way affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens. This is a state of things in which it may be said with some truth that laws are made for the FEW, not for the MANY.***  
16  
17  
18  
19  
20

21 ***In another point of view, great injury results from an unstable government. The want of confidence in the public councils damps every useful undertaking, the success and profit of which may depend on a continuance of existing arrangements. What prudent merchant will hazard his fortunes in any new branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?** What farmer or manufacturer will lay himself out for the encouragement given to any particular cultivation or establishment, when he can have no assurance that his preparatory labors and advances will not render him a victim to an inconstant government? In a word, no great improvement or laudable enterprise can go forward which requires the auspices of a steady system of national policy.*  
22  
23  
24  
25  
26  
27  
28

29 *But the most deplorable effect of all is that diminution of attachment and reverence which steals into the hearts of the people, towards a political system which betrays so many marks of infirmity, and disappoints so many of their flattering hopes. No government, any more than an individual, will long be respected without being truly respectable; nor be truly respectable, without possessing a certain portion of order and stability."*  
30  
31  
32  
33 *[Federalist Paper #62, James Madison]*

34 We hope that one of the lessons you will walk away with after you discover the kind of deceit above is that educating our  
35 young people to make them smart without giving them a moral or character or religious education causes major problems in  
36 our society like that above. Cheating in our schools is now rampant, and once these dishonest students enter the job market  
37 and become lawyers, politicians, and judges, their deceit is only magnified because of greed. It's no wonder that during the  
38 first half century of this country, you needed to just about have a divinity degree before you could think about studying to be  
39 a lawyer! No one with any sense of morality or decency or integrity would try to deceive the way the IRS lawyers have

1 deceived us all with the tax code shown above. This also explains the quotes at the beginning of this chapter, where we  
 2 provide bible verses in which Jesus condemned lawyers. He did this for a reason and now we know why! Let me repeat His  
 3 very words again from the beginning of chapter 3 for your benefit:

4 *"Woe to you lawyers! for **you have taken away the keys of knowledge**; you did not enter yourselves, and you*  
 5 *hindered those who were entering."*  
 6 *[Luke 11:52, Bible]*

7 How did lawyers take away the keys to knowledge? They did it by destroying or undermining the meaning of words, and  
 8 thereby robbing us of our liberty and our right of due process under the law. Because the law has been obfuscated, custody  
 9 of our liberty has been transferred from the law and our own understanding of the law to the arbitrary whims of judges, the  
 10 legal profession, and the courts, who we then are forced to rely upon to "interpret" the law and thereby tell us what our rights  
 11 are. These tactics have transformed us from a society of laws to a society of men, which eventually will be our downfall and  
 12 the means of totally corrupting our legal system if we don't correct it soon. Confucius said it best:

13 *"When words lose their meaning, people will lose their liberty."*  
 14 *[Confucius, 500 B.C.]*

15 Lastly, we'd like to offer you a funny anecdote to illustrate just what the affect has been in courtrooms all over the country  
 16 of the law profession's "theft" of our words and distortion of our language. Playwright Jim Sherman wrote the script below  
 17 just after Hu Jintao was named chief of the Communist Party in China in 2002. The dialog was patterned after a similar  
 18 comedic exchange in the 1920's between the Abbott and Costello called "Who's On First?" The conversation depicted below  
 19 is between George Bush and his Assistant for National Security Affairs, Condoleeza Rice. To apply this metaphor to a tax  
 20 trial, imagine that George Bush is the jury and Condi is you, who are the accused person litigating to defend your rights.  
 21 Notice how much confusion there is over words in this interchange. You will then understand just how difficult it is to  
 22 explain to jurists that the most important words in the tax code don't conform to our everyday understanding of the human  
 23 language in most cases.

### **HU'S ON FIRST**

*By James Sherman*

*(We take you now to the Oval Office.)*

24 *George: Condi! Nice to see you. What's happening?*

25 *Condi: Sir, I have the report here about the new leader of China.*

26 *George: Great. Lay it on me.*

27 *Condi: Hu is the new leader of China.*

28 *George: That's what I want to know.*

29 *Condi: That's what I'm telling you.*

30 *George: That's what I'm asking you. Who is the new leader of China?*

31 *Condi: Yes.*

32 *George: I mean the fellow's name.*

33 *Condi: Hu.*

34 *George: The guy in China.*

35 *Condi: Hu.*

36 *George: The new leader of China.*

37 *Condi: Hu.*

1                   George: The Chinaman!

2                   Condi: Hu is leading China.

3                   George: Now whaddya' asking me for?

4                   Condi: I'm telling you Hu is leading China.

5                   George: Well, I'm asking you. Who is leading China?

6                   Condi: That's the man's name.

7                   George: That's who's name?

8                   Condi: Yes.

9                   George: Will you or will you not tell me the name of the new leader of China?

10                  Condi: Yes, sir.

11                  George: Yassir? Yassir Arafat is in China? I thought he was in the Middle East.

12                  Condi: That's correct.

13                  George: Then who is in China?

14                  Condi: Yes, sir.

15                  George: Yassir is in China?

16                  Condi: No, sir.

17                  George: Then who is?

18                  Condi: Yes, sir.

19                  George: Yassir?

20                  Condi: No, sir.

21                  George: Look, Condi. I need to know the name of the new leader of China. Get me the Secretary General of the  
22                  U.N. on the phone.

23                  Condi: Kofi?

24                  George: No, thanks.

25                  Condi: You want Kofi?

26                  George: No.

27                  Condi: You don't want Kofi.

28                  George: No. But now that you mention it, I could use a glass of milk. And then get me the U.N.

29                  Condi: Yes, sir.

30                  George: Not Yassir! The guy at the U.N.

31                  Condi: Kofi?

32                  George: Milk! Will you please make the call?

1 Condi: And call who?

2 George: Who is the guy at the U.N?

3 Condi: Hu is the guy in China.

4 George: Will you stay out of China?!

5 Condi: Yes, sir.

6 George: And stay out of the Middle East! Just get me the guy at the U.N.

7 Condi: Kofi.

8 George: All right! With cream and two sugars. Now get on the phone.

9 (Condi picks up the phone.)

10 Condi: Rice, here.

11 George: Rice? Good idea. And a couple of egg rolls, too. Maybe we should send some to the guy in China. And  
12 the Middle East. Can you get Chinese food in the Middle East?

### 13 3.9.1.1 “citizen” (undefined)

14 The term “citizen” is nowhere defined directly in the Internal Revenue Code and is defined in the implementing regulations  
15 found in 26 C.F.R. §1.1-1(c) as follows:

#### 16 [26 C.F.R. §1.1-1\(c\): Income Tax on individuals](#)

17 (c) Who is a citizen. Every person born or naturalized in the [federal] [United States](#) and subject to [its](#) [exclusive  
18 federal jurisdiction under [Article I, Section 8, Clause 17 of the Constitution](#)] jurisdiction is a citizen. For other  
19 rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the [Immigration and Nationality](#)  
20 [Act \(8 U.S.C. 1401-1459\)](#). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act  
21 ([8 U.S.C. 1481-1489](#)), [Schneider v. Rusk, \(1964\) 377 U.S. 163](#), and Rev.Rul. 70-506, C.B. 1970-2, 1. For rules  
22 pertaining to persons who are [nationals but not citizens at birth](#), e.g., a person born in American Samoa, see  
23 section 308 of such Act ([8 U.S.C. 1408](#)). For special rules applicable to certain expatriates who have lost  
24 citizenship with a principal purpose of avoiding certain taxes, see [section 877](#). A [foreigner](#) who has filed his  
25 declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of  
26 a naturalization court is an alien.

27 The “citizen” described above as the proper subject of the income tax can be either a corporation or a natural person domiciled  
28 in the [federal](#) United States (federal zone), which includes territories and possessions of the United States and the District of  
29 Columbia. This is confirmed by reading 26 C.F.R. §31.3121(e) as follows:

#### 30 [26 C.F.R. §31.3121\(e\)-1 State, United States, and citizen](#)

31 (b)... The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin  
32 Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

33 Do you see anyone domiciled in a state of the Union described above? The legal encyclopedia, Corpus Juris Secundum  
34 (C.J.S.), also confirms that corporations are “citizens”:

35 "A corporation is a citizen, [resident](#), or inhabitant of the state or country by or under the laws of which it was  
36 created, and of that state or country only."  
37 [19 Corpus Juris Secundum (C.J.S.), Corporations, §886 (2003); Legal encyclopedia]

38 Because corporations are “citizens”, this fits in with the notion discussed in section 5.6.5 of the Great IRS Hoax that “income”  
39 within the meaning of Subtitle A of the Internal Revenue Code can only mean “corporate profit”. The Supreme Court also  
40 confirmed, in fact, that when governments enter into private business, such as the private law that is the Internal Revenue  
41 Code, they devolve to the level of ordinary corporations:

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, 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 Cr.Cl. 823, 826 (1982) (sovereign acts doctrine applies where, “[w]here [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)]

The only natural persons who are “citizens” and “individuals” within the Internal Revenue Code are instrumentalities or privileged public officers of the United States government, as we discuss later in section 3.9.1.10. The government has always had the authority to tax and regulate its own employees and agents.

People who are domiciled in states of the Union, outside of federal legislative jurisdiction are not statutory “citizens” or “U.S.\*\* citizens” or “citizens of the United States\*\*” under the Internal Revenue Code or under 8 U.S.C. §1401, but instead are “nationals” under 8 U.S.C. §1101(a)(21). We call these people “state nationals”. “State nationals” are “nonresident aliens” under the Internal Revenue Code if engaged in a public office and “non-resident non-persons” if not engaged in a public office. This is confirmed by examining the IRS Form 1040NR form itself, which actually mentions “U.S. nationals” as being “nonresident aliens”. By this, they can only mean STATUTORY “nationals but not citizens” born and living within U.S. possessions and not states of the Union. If those who are nationals per 8 U.S.C. §1101(a)(21) but not statutory citizens (territorial citizens) per 8 U.S.C. §1401 are not engaged in a public office they are non-resident non-persons.

See sections 4.9 through 4.12.14 for further details. Section 5.1.4 of this book also relates your citizenship status to your tax status.

### 3.9.1.2 “Compliance” (undefined)

Element	Definition
<b>Word:</b>	Compliance
<b>Context:</b>	“Our tax system is based on individual self-assessment and voluntary compliance.” Mortimer Caplin, former I.R.S. Commissioner.
<b>Internal Rev. Code:</b>	(undefined)
<b>Black’s Law Dictionary:</b>	Submission, obedience, conformance
<b>Webster’s:</b>	1) the act of complying; a yielding, as to a request, wish, desire, demand or proposal; concession; submission. 2) the act of complying; a yielding, as to a request, wish, desire, demand or proposal; concession; submission.
<b>Comment:</b>	In my opinion, the word “compliance” means “obedience to” or “yielding to.”

### 3.9.1.3 “Domestic corporation” (in 26 U.S.C. §7701(a)(4))

(4) Domestic

The term “domestic” when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.  
[26 U.S.C. §7701(a)(4)]

Did you notice they didn't define "domestic" from the perspective of "income" or from the perspective of persons or individuals? The reason is because as far as the "United States" is concerned, we are all nonresident citizens of a "foreign state". That is because within the Internal Revenue Code, Subtitle A, the "United States" consists of the District of Columbia according to 26 U.S.C. §7701. We talk about the "federal zone" later in section 4.5.3 if you want to explore further. This definition is *very important* when you consider the "source" rules in section 861 of the code and when they use the term "foreign" or "domestic" in the context of those rules. The below court ruling of the New York Court of appeals helps clarify the meaning of the terms "foreign" and domestic (derived from section 5.2.9).

*"The United States government is a foreign corporation with respect to a state."  
[N.Y. v. re Merriam, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287]*

### 3.9.1.4 "Employee" (in 26 U.S.C. §3401 (c))

26 U.S.C. §3401

(c) Employee

*For purposes of this chapter, the term "employee" includes [is limited to] an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.*

Even more interesting is the regulation corresponding to this definition, which states:

26 C.F.R. §31.3401(c) Employee:

*"...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a corporation."*

Now isn't that interesting? The I.R.C. says you aren't considered an employee as far as payroll deductions unless you are an elected or appointed political officer of the United States in direct receipt of government privileges! And yet, the IRS will vociferously deny that the income tax is an excise tax, which is synonymous with "privilege" tax. This section means the U.S. Government has no authority whatsoever to be telling private employers to withhold pay or hold them liable for not withholding! Even more interesting is the definition of "employee" found in 5 U.S.C. §2105:

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.

[...skipped a few entries since irrelevant...]

(d) A Reserve of the armed forces who is not on active duty or who is on active duty for training is deemed not an employee or an individual holding an office of trust or profit or discharging an official function under or in connection with the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

Another very interesting insight comes from 26 C.F.R. §31.3401(c)-1, which states:

(c) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees.

Basically then, you aren't a "federal employee" unless you work in the District of Columbia (the proper United States) or were appointed by the delegated authority of an elected official. Any other situation implies that you are practicing a business trade or profession that does not depend on the privileges incident to political office. (Rather twisted logic, isn't all of this!.. that's the way lawyers like it because that's where they get their job security from....COMPLEX LAWS!) Once again, the key to understanding this situation is to recognize that the jurisdiction of the government to tax results from the acceptance of government privileges in exchange for consent to waive one's rights to not pay taxes.

### 3.9.1.5 "Employer" (in 26 U.S.C. §3401 (d))

*Employer*

*For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that -*

*(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and*

*(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.*

You will note that because of the definition of "employee" listed in the previous section and in 26 U.S.C. §3401(c), which indicated that an employee is actually "an officer, elected official, or employee of the United States" (e.g. an elected or appointed federal official), then an employer by definition is a federal government agency. Of course the government has jurisdiction over itself to require such "employers" to withhold income on "nonresident alien INDIVIDUALS" (public officers) with U.S.\*\* (government) source income under 26 U.S.C. §1441(a), but they don't have such jurisdiction over private employers in the 50 Union states who are not resident inside the federal zone.

### 3.9.1.6 "Foreign corporation" (in 26 U.S.C. §7701 (a)(5))

*(5) Foreign*

*The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.*

Did you notice they didn't define the term "foreign" or "domestic" from the perspective of "income" or from the perspective of persons or individuals? The reason is because as far as the federal law is concerned, we are all statutory "non-resident non-persons" and nationals but not statutory citizens of a legislatively foreign political jurisdictions, which are the states of the Union. This is very important when you consider the "source" rules in section 861 of the code and when they use the term "foreign" or "domestic" in the context of those rule.

*Foreign Laws: "The laws of a foreign country or sister state. In conflicts of law, the legal principles of jurisprudence which are part of the law of a sister state or nation. Foreign laws are additions to our own laws, and in that respect are called 'jus receptum'."*  
[Black's Law Dictionary, Sixth Edition, p. 647]

*Foreign States: "Nations outside of the United States...Term may also refer to another state; i.e. a sister state. The term 'foreign nations', ...should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense."*  
[Black's Law Dictionary, Sixth Edition, p. 648]

### 3.9.1.7 "Gross Income" (26 U.S.C. §61)

"Gross income" is specifically defined in 26 U.S.C. §61 as follows:

*Sec. 61. Gross income defined*

## (a) General definition

Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

**(1) Compensation for services, including fees, commissions, fringe benefits, and similar items;**

(2) Gross income derived from business;

(3) Gains derived from dealings in property;

(4) Interest;

(5) Rents;

(6) Royalties;

(7) Dividends;

(8) Alimony and separate maintenance payments;

(9) Annuities;

(10) Income from life insurance and endowment contracts;

(11) Pensions;

(12) Income from discharge of indebtedness;

(13) Distributive share of partnership gross income;

(14) Income in respect of a decedent; and

(15) Income from an interest in an estate or trust.

The items above are referred to as “items of gross income”. The above list would appear to be all inclusive, and because it is, this is usually the first place the IRS will start during an audit as a way to try to deceive you and the jury into believing that everything you make is taxable. However, keep in mind that:

1. The U.S. Supreme Court has said that Subtitle A of the I.R.C. is not a tax on everything you make

*“We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed.--), the broad contention submitted on behalf of the government that all receipts—everything that comes in—are income within the proper definition of the term ‘gross income,’ and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term ‘income’ has no broader meaning in the 1913 act than in that of 1909 (see Stratton’s Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume there is not difference in its meaning as used in the two acts.”*  
[Southern Pacific Co., v. Lowe, [247 U.S. 330](#), 335, 38 S.Ct. 540 (1918)]

## 2. The U.S. Supreme Court has said that Subtitle A of the I.R.C. is a tax upon “income” as constitutionally defined, which the U.S. Supreme Court has repeatedly said is corporate profit connected with excise taxable activities.

*“The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, ‘from [271 U.S. 174] whatever source derived,’ without apportionment among the several states and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be ‘direct taxes’ within the meaning of the constitutional requirement as to apportionment. Art. I, §2, cl. 3, §9, cl. 4; Pollock v. Farmers’ Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes ‘from whatever source derived.’ Brushaber v. Union P. R. Co., 240 U.S. 1, 17. ‘Income’ has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants’ L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. Stratton’s Independence v. Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants’ L. & T. Co. v. Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169; Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S. 175]”*  
[Bowers v. Kerbaugh-Empire Co., [271 U.S. 170](#), 174 (1926)]

## 3. The U.S. Supreme Court has said that Congress cannot legislatively define the term “income” in the context of states of the Union. Only the Constitution can define it. They can only define “income” by legislation inside the federal zone.

*“In order, therefore, that the [apportionment] clauses cited from article I [§2, cl. 3 and §9, cl. 4] of the Constitution may have proper force and effect ...[I]t becomes essential to distinguish between what is and what*

1 is not 'income,' ...according to truth and substance, without regard to form. **Congress cannot by any definition**  
 2 **it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it**  
 3 **derives its power to legislate, and within those limitations alone that power can be lawfully exercised...** [pg.  
 4 207]...After examining dictionaries in common use we find little to add to the succinct definition adopted in two  
 5 cases arising under the Corporation Tax Act of 1909, *Stratton's Independence v. Howbert*, 231 U.S. 399, 415, 34  
 6 S.Sup.Ct. 136, 140 [58 L.Ed. 285] and *Doyle v. Mitchell Bros. Co.*, 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469, 62  
 7 L.Ed. 1054..."  
 8 [*Eisner v. Macomber*, [252 U.S. 189](#), 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920) ]

- 9 4. Congress has in fact legislatively defined "income" within [26 U.S.C. §643](#), and therefore that definition cannot apply  
 10 within a state of the Union and only applies within the federal zone and possibly to statutory U.S. citizens abroad pursuant  
 11 to [8 U.S.C. §1401](#) and [26 U.S.C. §911](#).
- 12 5. Subtitle A of the I.R.C. taxes two classes of income, which are defined in [26 U.S.C. §871](#):
- 13 5.1. Income connected with a "trade or business" in [26 U.S.C. §871](#)(b). A "trade or business" is defined in [26 U.S.C.](#)  
 14 [§7701](#)(a)(26) as "the functions of a public office" and not expanded elsewhere to include any other thing. This is  
 15 the excise tax upon the privileged taxable activity called a "public office". Only federal instrumentalities, such as  
 16 employees, public officers, and contractors, can engage in this activity and most Americans do not engage in this  
 17 activity.
- 18 5.2. Income not connected with a "trade or business" in [26 U.S.C. §871](#)(a). This is a tax upon passive income and  
 19 Social Security from the District of Columbia. It is the equivalent of a state income tax upon earnings from sources  
 20 within the District of Columbia.
- 21 6. The only thing the IRS can lawfully collect tax upon is payments for which an Information Return was filed pursuant to  
 22 [26 U.S.C. §6041](#). These information returns include W-2, 1098, 1099, 1042-S, etc.
- 23 7. [26 U.S.C. §6041](#) only authorizes the filing of information returns in the case of payments connected to an excise taxable  
 24 activity called a "trade or business", which is a "public office". Anyone not connected with "public office" who is the  
 25 "victim" of these reports has a duty to:
- 26 7.1. Remind the submitter that he is violating the law.
- 27 7.2. Prosecute the submitter pursuant to [26 U.S.C. §7434](#) for civil damages in connection with the false information  
 28 return.
- 29 7.3. Send in corrected information returns to the IRS. See:  
 30 <http://sedm.org/LibertyU/WithngAndRptng.pdf>
- 31 8. All information returns are not signed under penalty of perjury. Consequently, they are hearsay reports inadmissible as  
 32 evidence of a legal obligation. That is why:
- 33 8.1. You have to attach them to your tax return and sign the tax return under penalty of perjury: so that they are verified  
 34 and admissible as evidence.
- 35 8.2. The IRS cannot lawfully execute a Substitute For Return based upon them, since they are not evidence.
- 36 8.3. You can rebut them if they are false by submitting corrected information returns and thereby remove the  
 37 presumption that you have a tax liability.

38 Items that the law includes in "income" are described in code sections listed under the title of "Items Specifically Included in  
 39 Gross Income", which covers I.R.C. Sections 71 through 86. Nowhere in these sections and nowhere else in the Code is there  
 40 any mention of wages, salaries, commissions, or tips as being "income". As a matter of fact, "wages" used to be explicitly  
 41 listed in section 22(a) of the 1939 version of the Internal Revenue Code and was deliberately removed in the 1954 code! Here  
 42 is what that section said:

43 §22. *Gross income—(a) General definition*

44 "Gross income" includes gains, profits, and income derived from **salaries, wages, or compensation** for personal  
 45 services (including personal service as an officer or employee of a State, or any political subdivision thereof, or  
 46 any agency or instrumentality of any one or more of the foregoing), of whatever kind..."

47 Why would Congress eliminate "wages" if they wanted wages to continue to be taxable?

48 Likewise, to deceive and intimidate waitresses into declaring their tips to be income is a double fraud. First, tips are gifts  
 49 when earned outside of federal jurisdiction by those humans who do not file a W-4 with the employer. They are also not  
 50 truthfully classified as STATUTORY "wages" without the W-4 on file. According to the IRC, gifts are not subject to income  
 51 tax. In fact, even if tips were considered to be wages, they would still not be "income" and would not be subject to an income

(excise) tax unless one enters them as "income" on a tax return form. Refer to section 5.6.7 for further details on the taxability of wages.

### 3.9.1.8 "Includes" and "Including" (26 U.S.C. §7701 (c))

The word "include" and "includes" are important words in the Internal Revenue Code, since they are used in the definitions of the following important words:

**Table 3-6: Words depending on the definition of "includes"**

Term	Where defined
"employee"	26 U.S.C. §3401(c), 26 C.F.R. §31.3401(c)-1
"gross income"	26 U.S.C. §872
"person"	26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 C.F.R. §301.6671-1
"State"	26 U.S.C. §7701(a)(10)
"trade or business"	26 U.S.C. §7701(a)(26)
"United States"	26 U.S.C. §7701(a)(9)

The Internal Revenue Service wants you to believe that the Tax Code covers everything that is listed in the Code, and can be expanded to involve *anything else they may decide upon at any later date without the need to rewrite the law!* Look at the "definition" written in the Internal Revenue Code:

*"Sec. 7701(c) INCLUDES AND INCLUDING. - The terms 'include' and 'including' when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined."*

This would, at first glance, seem to say that these words are used in the Code in an expansive way, not a limiting way. (However, if you carefully analyze this "definition," you discover that it is a classic example of "double-talk." It really doesn't say ANYTHING!) But, going along with their game, if you are supposed to believe that these words are expansive in nature, how can you explain the definition for "GROSS INCOME" as stated in the Code?

*"SEC. 61(a) GENERAL DEFINITION. - Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items..." [Emphasis added]*

Why did they feel compelled to add "(but not limited to)?" The answer is self-evident: they knew that "including" is a LIMITING term! The reason they included this phrase also has to do with a rule of statutory construction documented in a book entitled *Federal Tax Research: Guide to Materials and Techniques*, Fifth Edition, Gail Levin Richmond, 1997, ISBN 1-56662-457-6 on page 40:

*"expressio unius, exclusio alterius"—if one or more items is specifically listed, omitted items are purposely excluded. Becker v. United States, 451 U.S. 1306 (1981)  
[Federal Tax Research: Guide to Materials and Techniques, Fifth Edition, Gail Levin Richmond, 1997, ISBN 1-56662-457-6, p. 40]*

If our deceitful lawmakers wanted to have the flexibility to contend that items other than those itemized in the Code could be added to the definition of Gross Income, they had to specifically reserve the right to add other things - hence the addition of "(but not limited to)."

You need to understand that the words "include" and "includes," when used in the Tax Code, DO NOT mean that other things can be included or added arbitrarily, but rather the definition is limited to the items specifically listed in the law. The Treasury definition of includes published in the Federal Register confirms this:

*"(1) To comprise, comprehend, or embrace... (2) To enclose within; contain; confine... But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited, preceding general language... The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."*

1                   *"Includes is a word of limitation. Where a general term in Statute is followed by the word, 'including' the primary*  
 2 *import of the specific words following the quoted words is to indicate restriction rather than enlargement. Powers*  
 3 *ex re. Covon v. Charron R.L., 135 A. 2<sup>nd</sup> 829, 832 Definitions-Words and Phrases pages 156-156, Words and*  
 4 *Phrases under 'limitations'."*

5                   *[Treasury Decision 3980, Vol. 29, January-December, 1927, pgs. 64 and 65]*

6 Treasury Decision No. 3980, Vol. 29, January-December 1927, and some 80 court cases have also adopted the restrictive  
 7 meaning of these terms.

8 As you probably know, Black's Law Dictionary is the Bible of legal definitions. See what it says:

9                   *"Include. (Lat. Includere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut*  
 10 *up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an*  
 11 *enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included*  
 12 *within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of*  
 13 *illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d.*  
 14 *227, 228."*

15                   *[Black's Law Dictionary, Sixth Edition, p. 763]*

16 In other words, according to Black, when INCLUDE is used it expands to take in all of the items stipulated or listed, but is  
 17 then limited to them!

18 Further, Bouvier's Law Dictionary (written by the U.S. Supreme Court Justice with the same name) has the following  
 19 definitions:

20                   *"INCLUDE (Lat. in claudere to shut in, keep within). In a legacy of 'one hundred dollars including money trusted'*  
 21 *at a bank, it was held that the word 'including' extended only to a gift of one hundred dollars; 132 Mass. 218..."*

22                   *"INCLUDING. The words 'and including' following a description do not necessarily mean 'in addition to,' but*  
 23 *may refer to a part of the thing described. 221 U.S. 425."*

24                   *[Bouvier's Law Dictionary, Justice John Bouvier, 1856; SOURCE:*  
 25 *<https://famguardian.org/Publications/Bowiers/bowier.htm>]*

26 And, in everyday life, the meaning of these words is a RESTRICTIVE one, not an EXPANSIVE one.

27 Read the American College Dictionary:

28                   *"include, v.f.;-cluded, -cluding. 1. to contain, embrace, or comprise, as a whole does parts or any part or*  
 29 *element."*

30                   *"included, adj. 1. enclosed; embraced; comprised. 2. But. not projecting beyond the mouth of the corolla, as*  
 31 *stamens or a style."*

32 Note that here, even the Botanical meaning is a confining use! Now, Roget's Thesaurus:

33                   *"include, v.f. comprise, comprehend, contain, admit, embrace, receive; enclose, circumscribe, compose,*  
 34 *incorporate, encompass; recon or number among, count in; refer to, place under, take into account."*  
 35                   *[Roget's Thesaurus]*

36 So, when you see "including" or "includes," whether in normal usage or in the Internal Revenue Code, understand that it is  
 37 limited to the items listed and spelled out in the Law and nothing more. This must be so because the expansive use of the  
 38 word "includes" and "including" violates our Fifth Amendment due process protections as shown below in the U.S. Supreme  
 39 Court case of *Connally v. General Construction Co.*, 269 U.S. 385 (1926) :

40                   *"A statute which either forbids or requires the doing of an act in terms so vague that men and women of common*  
 41 *intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of*  
 42 *due process of law."*

43                   *[Connally v. General Construction Co., 269 U.S. 385 (1926) ]*

1 If the act doesn't specifically identify what is forbidden or "included" and we have to rely not on the law, but some judge or  
 2 lawyer or politician or a guess to describe what is "included", then our due process has been violated and our government  
 3 has thereby instantly been transformed from a government of laws to a government of men.

4 *The concept of "due process of law" as it is embodied in Fifth Amendment demands that a law shall not be*  
 5 *unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial*  
 6 *relation to the object being sought.*  
 7 *[Black's Law Dictionary, Sixth Edition, p. 500, under the definition of "due process of law"]*

8 If the word "includes" is used in its expansive sense, we have, in effect, subjected ourselves to the arbitrary whims of however  
 9 the currently elected politician or judge wants to describe what is "included". That leads to massive chaos, injustice, and  
 10 unconstitutional behavior by our courts and our elected representatives. It also promotes unnecessary litigation over the  
 11 meaning of the tax code, to the benefit of lawyers, lawmakers, and the American Bar Association, which is a clear conflict  
 12 of interest.

13 Why did the Congress define "include" the way they did? Because that way they can define and interpret the Internal Revenue  
 14 Code however they want! They needed to leave wiggle room for the IRS and the Treasury in the writing of the interpreting  
 15 regulations. In particular, the interpreting regulations in 26 C.F.R. have a much broader definition of "employer" and  
 16 "employee" that is not consistent with the U.S. Code section 7701 and 3401, so they had to leave room for the IRS to defend  
 17 their interpretation of the code by saying:

18 *"The code does not define or limit everything that is taxable because the word 'include' is not restrictive, and so*  
 19 *we can write our regulations however we want to and disregard the codes entirely."*

20 This is obviously tyranny in action, and it must be stopped! The purpose of law is, in fact, to limit government power. The  
 21 U.S. Supreme Court case of Downes v. Bidwell, 182 U.S. 244 (1901) in fact, pointed this fact out. That limitation BEGINS  
 22 with definitions that are limiting. See section 3.12.12 entitled "26 C.F.R. §31: Employment Taxes and Collection of Income  
 23 Taxes at the Source" for an expose on how the IRS and Treasury distorted its regulations because of this tyrannical trick with  
 24 the word "includes".

25 According to tax paralegal Eddie Kahn, because the term "includes" is defined expansively in [26 U.S.C. §7701](#), any  
 26 "definition" that uses this word is a NON definition and cannot be relied upon to clearly and unambiguously define the  
 27 meaning of a word. We disagree, and think that the term "includes" is and always has been a word of limitation. Mr. Kahn  
 28 argues that any definition that uses "means" instead of "includes", however, is a legitimate definition that does properly bound  
 29 the meaning of a word, and we agree with this. You will note that 26 U.S.C. §7701 has a mixture of definitions, some of  
 30 which use the word "means" and others use the word "includes". Be cautious with the definitions that use the word "includes"  
 31 because they are designed to deliberately confuse you if you use the expansive, or non-limiting version of "includes" that we  
 32 don't endorse. This kind of double speak is evident, for instance, in the definition of the term "United States" found in 26  
 33 U.S.C. §7701(a)(9), and represents a violation of due process

34 Finally, the U.S. Supreme Court put a nail in the coffin of the expansive use of the word "includes" when it said the following:

35 *In the interpretation of statutes levying taxes, it is THE ESTABLISHED RULE NOT TO EXTEND their provisions,*  
 36 *by implication, BEYOND THE CLEAR IMPORT OF THE LANGUAGE USED, OR TO ENLARGE their*  
 37 *operations SO AS TO EMBRACE MATTERS NOT SPECIFICALLY POINTED OUT".*  
 38 *[Gould v. Gould, 245 U.S. 151]*

39 For a more thorough and passionate treatment of the subject of the word "includes", refer to section 5.10.6 later in this book.  
 40 We have also written a whole 70 page book that addresses the meaning of the word "includes" below:

[Legal Deception, Propaganda, and Fraud, Form #05.014](http://sedm.org/Forms/FormIndex.htm)  
<http://sedm.org/Forms/FormIndex.htm>

### 41 3.9.1.9 **"Income" (not defined)**

42 Most people mistakenly believe all monies they receive are "income". However, the U.S. Supreme Court has acknowledged  
 43 that this is simply not the case:

1 *"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909*  
 2 *(Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed.--), the broad contention*  
 3 *submitted on behalf of the government that all receipts—everything that comes in—are income within the proper*  
 4 *definition of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever*  
 5 *form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term*  
 6 *'income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's Independence v. Howbert,*  
 7 *231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume there is not difference in its*  
 8 *meaning as used in the two acts."*  
 9 *[Southern Pacific Co., v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 (1918)]*

10 When a natural person signs the tax form under penalty of perjury, he has made a voluntary affidavit that his wages, salary,  
 11 commissions, and tips listed on the return are "income" subject to I.R.C., Subtitle A tax. In the still standing decision of  
 12 *Brushaber v. Union Pacific Railroad Company*, 240 U.S. 1, the United States Supreme Court ruled that the federal income  
 13 tax is an excise tax under the Sixteenth Amendment (the income tax amendment). The Court explained that the income tax  
 14 cannot be imposed as a direct tax (a tax on individuals or on property) because the United States Constitution still requires  
 15 that all direct taxes must be apportioned among the States. "Apportioned" means that a direct tax is laid upon the State  
 16 governments in proportion to each State's population. The Court ruled that income tax can be constitutional only as an indirect  
 17 (excise) tax -- that is, a tax on profits earned by corporations or privileges granted by federal government. In other words,  
 18 said the Supreme Court, in order for there to be "income", there must be profits or gains received in the exercise of a privilege  
 19 granted by government. As an example, a lawyer is granted the government privilege of being an officer of the government  
 20 court when he represents clients in litigation.

21 As you will learn later, in section 5.6.5, "income" can only mean "corporate profit", according to the U.S. Supreme Court in  
 22 *Doyle v. Mitchell Brothers Co.*, 247 U.S. 179, 185, 38 S.Ct. 467 (1918).

23 *"The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, "from*  
 24 *[271 U.S. 174] whatever source derived," without apportionment among the several states and without regard to*  
 25 *any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within*  
 26 *the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had*  
 27 *been held to be "direct taxes" within the meaning of the constitutional requirement as to apportionment. Art. 1,*  
 28 *§2, cl. 3, §9, cl. 4; Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that*  
 29 *requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and*  
 30 *those that are not, and so put on the same basis all incomes "from whatever source derived." Brushaber v. Union*  
 31 *P. R. Co., 240 U.S. 1, 17. "Income" has been taken to mean the same thing as used in the Corporation Excise*  
 32 *Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern*  
 33 *Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full*  
 34 *consideration, this Court declared that income may be defined as gain derived from capital, from labor, or*  
 35 *from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v.*  
 36 *Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S.*  
 37 *189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v.*  
 38 *Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169;*  
 39 *Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin*  
 40 *v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes*  
 41 *income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S.*  
 42 *175]"*  
 43 *[Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174 (1926)]*

44 By "corporate profit", we mean profits of either state or federal corporations involved in foreign commerce, within the  
 45 meaning of the U.S. Constitution, according to the U.S. Supreme Court. The Supreme Court also determined in *Eisner v.*  
 46 *Macomber*, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920) that Congress, cannot by legislation or the Internal  
 47 Revenue Code, define "income". You can't have "gross income" until you have "income". Therefore, how can Congress  
 48 even define "gross income", since it depends on the definition of "income"?

### 49 **3.9.1.10 "Individual" (26 C.F.R. §1.1441-1(c)(3))**

50 The term "individual" is used in [26 U.S.C. §1](#) and is also used in [26 U.S.C. §6012\(a\)](#) but it is *never* defined *anywhere* in the  
 51 Internal Revenue Code (I.R.C). The reason it is not defined is that doing so would expose the government's secret weapon,  
 52 which is the abuse of words to expand the jurisdiction of the federal government beyond its Constitutional limitations. The  
 53 U.S. Code elsewhere defines the term "person" as follows, but this definition is superseded by that found in [26 U.S.C.](#)  
 54 [§7701\(a\)\(1\)](#) shown later:

55 [TITLE 1 > CHAPTER 1 > §8](#)  
 56 §8. "Person", "human being", "child", and "individual" as including born-alive infant

(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development.

(b) As used in this section, the term "born alive", with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being "born alive" as defined in this section.

Therefore, we have to look in the legal dictionary for the definition. Below is the definition found in Black's Law Dictionary, Sixth Edition, on p. 907:

**Individual.** As a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; **but it is said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper cases, include [be limited to] artificial persons.**  
[Black's Law Dictionary, Sixth Edition, p. 907]

Note that this definition above does not necessarily imply a natural (biological) person. Therefore, the Internal Revenue Code cannot yet be said to necessarily apply to natural persons. Here is the proper definition of "individual" in the context of the IRS form 1040 and within the meaning of the code, as we understand it:

*Individual*

An artificial federally-chartered entity, meaning a federal (but not state) chartered corporation or partnership or trust engaged in a privileged activity called a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". Everything that goes on an IRS form 1040 and an information return, such as IRS Forms W-2, 1042-S, 1098, and 1099 is "trade or business" income pursuant to 26 U.S.C. §6041. Also, an alien or nonresident alien acting in a public office of the United States government with income originating from the federal United States government. This STATUTORY "individual" is NOT a private human being with earnings from outside the district (federal/STATUTORY) United States\*\* who is living and working for a private employer in the 50 united States of America. This is because of the restrictions on direct taxes imposed by Article 1, Section 9, Clause 4, and Article 1, Section 2, Clause 3 of the U.S. Constitution..<sup>55</sup>

The term "individual" is referenced in 26 U.S.C. §7701(a)(1) under the definition of "person" as follows:

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

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

(1) Person

The term "person" shall be construed to mean and include **an individual**, a trust, estate, partnership, association, company or corporation.

Note the very important phrase "an individual" rather than "all individuals". This is a VERY important clue that the Internal Revenue Code applies only to a very specific type of "individual" who is involved in a taxable activity, and not to all individuals generally. A law that only applies to a special subset of "individuals" is called a "special law". Your mission, should you choose to accept it, is to figure out exactly what kind of "individual" fits the above description. We only need to look in three places in the code to determine who this individual is:

<sup>55</sup> See 26 U.S.C. §861 for a list of the taxable "sources" of income for this fictitious "person".

1. [26 U.S.C. §6331\(a\)](#) says the only proper person against whom distraint may be exercised are instrumentalities of the federal government who by implication are involved in a “public office”, such as “employees”, contractors, and agents of the government.
2. [26 U.S.C. §7701\(a\)\(26\)](#) defines and limits the term “trade or business” to “the functions of a public office”.
3. [26 U.S.C. §7701\(a\)\(31\)](#) says that all those who are not involved in a “trade or business” are not the proper subject of the Internal Revenue Code.

Simple, isn't it? A tax researcher named Frank Kowalik, who wrote the book *IRS Humbug* (see section 5.6.13 later), also concludes that the term “individual” means *only* an elected or appointed officer of the United States government and he presents mountains of evidence to back that up in his book. Here's the way he describes it in his book on pages 122 through 123:

*I emphasized that section 6012(a) applies to “every individual” who received “gross income.” The word “individual” is not directly defined in the I.R. Code. Still, Congress indirectly, but distinctly, limited the meaning of the term “individual” by use of the word “an” rather than “any” in the general definition of the word “person” [see definition above in 7701(a)(1)] for the I.R. Code. When a section of law applies to all persons living under the laws of the United States of America, the words “any person” are used. When limited to specific classes of persons, the phrase “a person” or “an individual” is used. Hence, Congress distinctly made only those “individuals” who perform personal services for the U.S. Government fall within the class of individuals (natural persons) subject to the I.R. Code laws by the definition of “person” in section 7701(a)(1). All other individuals are, by implication, excluded.*

*Even though section 6012(a) contains the word “every” (usually meaning without exception) in conjunction with the term “individual,” Congress limited this statute to Federal Government employees. The restriction was accompanied by adding “having... gross income.” Only federal government employees receive “gross income” subject to I.R. Code laws because of their “wages.” Private sector employees do not.*

*Congressmen must have intended the term “every individual” to be misunderstood and interpreted broadly rather than restrictively. Yet it would be manifestly incompatible with the intent of the law of the United States of America for Congress to expand the word “individual” to all persons considering the fact that compelling anyone to make private information public in a document would be a violation of their First, Fourth, and Fifth Amendment rights. This is why there can be no I.R. Code law mandating the making of a “U.S. Individual Income Tax Return.”<sup>56</sup>*

We believe he is not completely correct on this point and that an “individual” includes any agency, instrumentality, or public office within the United States Government, including elected or appointed officers of the government. [26 U.S.C. §6331\(a\)](#) and [26 U.S.C. §3401\(c\)](#) confirm this conclusion. You will note that 26 U.S.C. §6331(a) identifies the persons against whom the code may be enforced, and all of them are agencies, instrumentalities, and officers of the United States government, including elected or appointed officers of the government. Frank points out that the above definition uses the word “an” in front of “individual” so as to emphasize that “person” does not include all “individuals”, but only certain individuals defined elsewhere in the code. If Congress had intended the code to apply to all individuals, they would have used the term “all individuals” or “all persons”, but they didn't. They didn't because doing so would violate the intent and spirit of the Constitutional prohibition against direct taxes found in 1:2:3 and 1:9:4 of the U.S. Constitution.

We will now examine the definition of “individual” found in 26 C.F.R. §1.1441-1(c)(3):

[26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

**(c) Definitions**

**(3) Individual.**

(i) Alien individual.

*The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).*

[26 C.F.R. §1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons.](#)

<sup>56</sup> *IRS Humbug: Weapons of Enslavement*, Frank Kowalik, ISBN 0-9626552-0-1, 1991, pp. 122-123.

(c) Definitions(3) Individual.(ii) Nonresident alien individual.

The term nonresident alien individual means persons described in section 7701(b)(1)(B), alien individuals who are treated as nonresident aliens pursuant to § 301.7701(b)-7 of this chapter for purposes of computing their U.S. tax liability, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under § 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013(g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

**The above definition ought to raise some BIG red flags!** First of all, if you live in the [federal] United States\*\* as a natural person, you aren't an "individual" because the definition of "individual" doesn't include statutory citizens of the United States\*\* defined in 8 U.S.C. §1401! Note also that the above definition doesn't constrain itself to a specific section of the code by saying something like "for the purposes of chapter 3 of the I.R.C....". In fact, this is the ONLY definition of the term "individual" found ANYWHERE in either the Internal Revenue Code or the Regulations. Therefore, the tax code can't apply to you even if you claim to be a statutory U.S.\*\* citizen defined in 8 U.S.C. §1401! There is one exception to this, which is found in 26 U.S.C. §911, whereby statutory "U.S. citizens" when they are abroad, are subject to subtitle A of the I.R.C. on "trade or business" earnings. The reason is that when they are abroad, they are "aliens" in relation to the country they are staying and they interface to the tax code as aliens coming under a tax treaty with a foreign country. This is consistent with the definition of "unmarried individual" and "married individual" in 26 C.F.R. §1.1-1(a)(2)(ii) as an alien with "trade or business income". This is also consistent with our findings earlier. It also explains why a statutory U.S. citizen is defined as someone who lives in the Virgin Islands, Guam, Puerto Rico, or American Samoa, as follows:

26 C.F.R. §31.3121(e)-1 State, United States, and citizen.

(b)...The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

The definition for "individual" that the government wants you to incorrectly assume, however, is that found in 5 U.S.C. §552a(a)(2):

5 U.S.C. §552a(a)(2)

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

But the above definition of "individual" is superseded by the only definition of "individual" found in the Treasury Regulations in 26 C.F.R. §1.1441-1 above. You therefore can't be a "individual" who can be the "person" against whom the income tax is imposed under 26 U.S.C. § 1 unless you either reside OUTSIDE the "United States\*\*" under 26 C.F.R. §1.1441-1(c)(3) or you reside INSIDE the United States\*\* and are an "alien". That's why they created a definition of "U.S. citizen" that means you are living outside the United States (in the Virgin Islands) so they can "pretend" that you are taxable! That way, even when you tell them you live in the "United States" by giving them an address in the 50 Union states on your tax return, they can still claim that you live in Puerto Rico or the Virgin Islands because of your status as a "U.S. citizen"! This whole scheme can be confirmed by ordering a copy of your Individual Master File (IMF) from the IRS and looking at the transaction codes on the IMF. If you look at your IMF and you have been filing 1040 forms for a while, chances are your record reflects that you reside in the Virgin Islands, even if you really live in one of the 50 Union states outside the federal zone! That's why the IRS made the Publication 6209, which is used for decoding the IMF file, "For Official Use Only", which is short for "Don't let Citizens get their hands on this at all costs!". They know they are committing fraud and they don't want you, the Citizen, to know the horrible truth and expose that fraud, because then they lose their ability to claim "plausible deniability".

I bet this all sounds pretty crazy to you, right(?), but I swear to God it's the truth! These are the kinds of sneaky tricks that IRS lawyers make their living dreaming up in order to make the illegal fraud and extortion called the income tax look more "civilized" and believable and well hidden from public view. They have consumed more than 90 years and thousands of revisions of the code in the process of concocting the deliberately vague and unconstitutional mess we have now. If they wanted the truth in public view, they would have put the definitions of "U.S. citizen" and "individual" in the Internal Revenue

Code, right? But they instead buried it deep inside regulations that few Citizens ever view and only the agency itself usually looks at because they wanted to hide it!

The above definitions of “Alien individual” and “Nonresident alien individual” in 26 C.F.R. §1.1441(c)(3) can also seem a little confusing initially. You will find out that we suggest to people in section 4.5.3.13 of the *Sovereignty Forms and Instructions Manual*, Form #10.005 that they should correct government records describing their citizenship to properly describe themselves as “nationals” who are not STATUTORY “citizens of the United States\*\*” as defined in 8 U.S.C. §1101(a)(21). However, looking at 26 C.F.R. §1.1441-1(c)(3)(i) above leads one to believe that they cannot be a nonresident alien if they are a “national”. However, 26 U.S.C. §7701(b)(1)(B) reveals that they can:

*(B) Nonresident alien*

*An individual is a nonresident alien if such individual is neither a [STATUTORY] citizen of the United States[\*\*] nor a resident of the United States[\*\*] (within the meaning of subparagraph (A)).*

A person can therefore be a “national” and not a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401 and live outside the federal zone in a state of the Union and be a nonresident alien individual if they lawfully occupy a public office. If they don’t lawfully occupy a public office, they are statutory “non-resident non-persons”. Our guidance is sound and based on the law.

**QUESTION FOR DOUBTERS:** If you don’t believe an “individual” can only be defined as an “alien” or “nonresident alien” as above or that the above definition is the *only* definition of “individual” anywhere in the Internal Revenue Code” or 26 C.F.R., then we *challenge you* to find a definition in either of these two sources of law (not IRS Publications, which we will find out later are a fraud, but the law) that defines the word “individual” as *also* including “U.S. citizens” or “citizens of the United States”. We searched the entire I.R.C. and 26 C.F.R. (20,000 pages) electronically and found NO other definitions! Furthermore, we challenge you to explain why the 1040 income tax form doesn’t say “U.S. Citizen or Resident” instead of “U.S. Individual” at the top of the form!

### 3.9.1.11 “Levy” (in 26 U.S.C. §7701 (a)(21))

*26 U.S.C. §7701 Definitions*

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

*(21) Levy*

*The term “levy” includes the power of distraint and seizure **by any means**.*

Note that this definition of “levy” does not necessarily mandate a court order and therefore conflicts with the legal definition of “levy” found below:

*Levy, n. A seizure. The obtaining of money by legal process through seizure and sale of property; the raising of the money for which an execution has been issued.*

*The process whereby a sheriff or other state official empowered by writ or other judicial directive actually seizes, or otherwise brings within her control, a judgment debtor’s property which is taken to secure or satisfy the judgment.*

*[Black’s Law Dictionary, Sixth Edition, p. 907]*

It is because of the difference between the legal definition of “levy” and the “levy” described in 26 U.S.C. §7701(a)(21) that the federal courts can claim that levies without due process or which are not empowered by a writ or other judicial directive are Constitutional and legal. See 9.9 for further details on this subject. Remember, however, that the “Notice of Levy” ([IRS Form 668A-c\(DO\)](#)) and the “Levy” ([Form 668-B](#)) cannot be lawfully issued outside of the federal United States against persons who are not “U.S. citizens” because they would be unconstitutional and a violation of the Fourth and Fifth Amendment. The key is that you must be a “U.S. citizen” to be the subject of a levy that does not involve a judicial proceeding or a judgment. “Nationals”, which is what most of us are, are not the proper subject of the IRS “Notice of Levy” ([IRS Form 668A-c\(DO\)](#)) or “Levy” ([Form 668-B](#)). IRS agents, and especially those with Administrative Pocket Commissions, who issue a Notice of Levy against persons who are “nationals” or who live outside of the federal zone are violating the law by

operating outside their jurisdiction and in violation of the Constitution, and can be tried for any number of violations of the law, including:

1. Conspiracy against rights under [18 U.S.C. §241](#)
2. Extortion under [18 U.S.C. §872](#) .
3. Wrongful actions of Revenue Officers under [26 U.S.C. §7214](#)
4. Engaging in monetary transactions derived from unlawful activity under [18 U.S.C. §1957](#)
5. Mailing threatening communications under [18 U.S.C. §876](#)
6. False writings and fraud under [18 U.S.C. §1018](#)
7. Taking of property without due process of law under [26 C.F.R. §601.106\(f\)\(1\)](#)
8. Retaliating against or harassing a taxpayer under IRS Restructuring and Reform Act, section 1203
9. Unauthorized collection activity under [26 U.S.C. §7433](#)
10. Fraud under [18 U.S.C. §1341](#)
11. Continuing financial crimes enterprise (RICO) under [18 U.S.C. §225](#)

### 3.9.1.12 “Liable” (undefined)

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Liable
<b>Context:</b>	“Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary from time to time prescribe...” --Portion of Sec. 6001, Chap. 61, I.R.C.
<b>Internal Rev. Code:</b>	(undefined)
<b>Black’s Law Dictionary:</b>	Bound or obliged in law or equity; responsible; chargeable; answerable; compellable to make satisfaction, compensation or restitution.
<b>Webster’s:</b>	1) legally bound; answerable; responsible
<b>Comment:</b>	In my opinion, the word “liable” means “responsible” and “bound by law.” This sentence points out that if a person is “liable,” and the I.R.C. section designates said person as “liable” (bound by law), then he must do those things, i.e., keep such records, make such returns, etc., as set forth in Sec. 6001. Without careful scrutiny, an individual could believe that the word “liable” means “to owe (something)” and that he must “pay (something)”—the payment of taxes; rather it serves to give the reader a clue as to what he must do if he determines he is the “person liable.”

### 3.9.1.13 “Must” means “May”

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Must
<b>Context:</b>	“You must fill in all parts of the tax form that apply to you.” –IRS Notice 609, Rev. Oct 1986
<b>Internal Rev. Code:</b>	(undefined)
<b>Black’s Law Dictionary:</b>	This word, like the word “shall” is primarily of mandatory effect (cite omitted)..and in that sense is used in antithesis to “may.” But this meaning of the word is not the only one, and it is often used in a merely directory sense, and consequently is a synonym for the word “may” not only in the permissive sense of that word, but also in the mandatory sense which it sometimes has.
<b>Webster’s:</b>	An auxiliary used with the infinitive of various verbs to express: (a) compulsion, obligation, requirement, or necessity; as I must pay her; (b) probability; as, then you must be my cousin; (c) certainty or inevitability; as, it must have rained while we were in.

Most people have never studied the IRC and their understanding of the law is generally based on hearsay, newspaper articles and IRS instructional materials. These instructions make frequent use of the deceptive word "must" in describing the things that the IRS wants you to do, because "must" is a forceful word that people mistakenly believe to mean "are required". Very few people realize that "must" is a directory word similar to "shall" and that, in IRS instructions to the public, it means "may", the same as the word "shall".

1 Because of the constitutional conflicts explained earlier in this document, the word "must", similar to the word "shall", cannot  
2 have a mandatory meaning for natural persons. It therefore means "may" when used in IRS instruction publications.

3 The IRS instructions for Form 1040 state that you "must" file a return if you have certain amounts of income. IRS withholding  
4 instructions state that employers "must" withhold money from paychecks for income tax, "must" withhold social security tax  
5 (an income tax also), and "must" send to the IRS any W-4 withholding statement claiming exemption from withholding, if  
6 the wages are expected to usually exceed \$200 per week. An understanding of the legal meaning of the word "must" exposes  
7 the deception by the IRS and makes it clear that the actions called for are voluntary actions for individuals that are not required  
8 by law. If these actions were required by law, the instructions would not use the word "must", but would say that the actions  
9 were "required".

### 10 3.9.1.14 "Nonresident alien" (in 26 U.S.C. §7701 (b)(1)(B))

11 The term "nonresident alien" is a combination of two words:

- 12 1. "nonresident": Means that the entity has not nominated the specific government in question as their protector by choosing  
13 a domicile or residence within the territory protected by that government. Therefore, the entity is not protected by the  
14 civil laws of that place or government. For details on "domicile" and "residence", see :

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

- 15 2. "alien": Means legislatively "foreign" in relation to the jurisdiction in question.  
16 2.1. Constitutional context: The term "alien" in the context of a human being can mean that the human being was not  
17 born within the country that encompasses the jurisdiction in question.  
18 2.2. Statutory context: The term "alien" in relation to an artificial entity such as a corporation or trust could mean that  
19 the entity was not created or registered under the statutory laws of the specific jurisdiction in question.

20 The term "nonresident alien" is statutorily defined in 26 U.S.C. §7701(b)(1)(B), which says:

21 26 U.S.C. §7701(b)(1)(B) Nonresident alien

22 *An individual is a nonresident alien if such individual is **neither a citizen of the United States nor a resident of**  
23 **the United States** (within the meaning of subparagraph (A)).*

24 The first thing we notice about the above definition is that the term "nonresident alien" is defined in the context of ONLY an  
25 "individual" as legally defined. Upon investigating this matter further, we find that:

- 26 1. Nowhere other than in the above definition does the term "nonresident alien" appear without the term "individual", and  
27 it appears only in the title of 26 U.S.C. §7701(b)(1)(B) above.  
28 2. 26 C.F.R. §1.1441-1(c)(3)(i) defines all "individuals" as aliens. Based on comparing the definition of "individual" in  
29 that section and the term "nonresident alien" in 26 U.S.C. §7701(b)(1)(B), we find that:  
30 2.1. You can be a "nonresident alien" without ALSO being a "nonresident alien individual".  
31 2.2. The only difference between a "nonresident alien" and a "nonresident alien individual" is that the entity:  
32 2.2.1. Is a not a "**national or citizen of the United States**", where:  
33 2.2.1.1. "citizen of the United States" means 8 U.S.C. §1401 or 8 U.S.C. §1101(a)(22)(A) who is domiciled  
34 on federal territory. It DOES NOT mean a Constitutional citizen.  
35 2.2.1.2. "national of the United States\*\*" means that described in 8 U.S.C. §1408 and 8 U.S.C.  
36 §1101(a)(22)(B). It includes people domiciled in American Samoa and Swain's Island but excludes  
37 those domiciled in Constitutional states of the Union.  
38 2.2.2. Meets one or more of the following two criteria:  
39 2.2.2.1. Residence/domicile in a foreign country under the residence article of an income tax treaty and 26  
40 C.F.R. §301.7701(b)-7(a)(1).  
41 2.2.2.2. Residence/domicile as an alien in Puerto Rico, Guam, the Commonwealth of Northern Mariana  
42 Islands, the U.S. Virgin Islands, or American Samoa as determined under 26 C.F.R. §301.7701(b)-  
43 1(d).

44 Therefore, a human being who is a non-resident such as those born within and domiciled within Constitutional states of  
45 the Union cannot be a "nonresident alien individual" regardless of their domicile. Compare 26 U.S.C. §7701(b)(1)(A).

- 46 3. The definition of "nonresident alien" in 26 U.S.C. §7701(b)(1)(B) describes what a "nonresident alien" **IS NOT**, but

not what it **IS**. They are hiding something, aren't they? They obviously don't want you to know what it is because then they would have to admit that nearly everyone in states of the Union are non-resident NON-persons for which there are NO tax forms they can sign unmodified without committing perjury under penalty of perjury.

4. The above definition tries to create the presumption that only human beings can be "individuals", but this is in fact false. An artificial entity that is not a human being, for instance, can also satisfy the following criteria for being a "nonresident alien":

*"neither a citizen of the United States nor a resident of the United States"*

The reason they do this is that they don't want you to know that businesses can ALSO be "nonresident aliens". If every business out there declared itself to be a "nonresident alien", the government wouldn't have a way to regulate or tax them or accomplish its main goal of regulating commerce! Block 3 of the IRS Form W-8BEN confirms that entities other than "individuals" listed in the definition of "nonresident alien" can also be "nonresident aliens". The form in Block 3 lists grantor trusts, complex corporations, estates, etc. as being also "nonresident aliens", but all the entities listed are statutory "public" and not "private" entities domiciled on federal territory or doing business there, and engaged in a "public office" in the U.S. government. The government has no jurisdiction to regulate the affairs of entities neither domiciled nor resident outside its jurisdiction nor engaged in private and not public activities.

*"Although the conduct of private parties lies beyond the Constitution's scope in most instances, governmental authority may dominate an activity to such an extent that its participants must be deemed to act with the authority of the government and, as a result, be subject to constitutional constraints."*  
*[Edmonson v. Leesville Concrete Company, 500 U.S. 614 (1991)]*

5. Nearly every place that the term "nonresident alien" is described in the Internal Revenue Code and the Treasury Regulations and in which a duty is prescribed, the phrase "individual" is added to the end so that it reads "nonresident alien individual". See Section 5.6.13 later for details.
6. Nowhere do the I.R.C. or the Treasury Regulations impose a duty or obligation upon "nonresident aliens" who are NOT "individuals". For instance, the obligation to file income tax returns is described in 26 C.F.R. §1.6012-1(b) in the context of "nonresident alien individuals", but nowhere in the context of those who are "nonresident aliens" but NOT "individuals".
7. IRS Form 1040 is entitled "U.S. **Individual** Income Tax Return". Those who are not "individuals" cannot have an obligation to file this form.

Based on the above, if you want to avoid being subject to the I.R.C. or having any sort of obligation under it, you must therefore describe yourself as a "non-resident non-person" who has NO status under the Internal Revenue Code, including "individual". Note that "individuals" are a subset of "persons" within the I.R.C. This, in fact, is what the AMENDED version of the IRS Form W-8BEN that we provide does at the link below: It adds two new statuses to the IRS Form W-8BEN, which are "transient foreigner" and "Union State Citizen" as an alternative to the word "individual".

About IRS Form W-8BEN, Form #04.202  
<http://sedm.org/Forms/FormIndex.htm>

Note that you can be a "nonresident alien" and a "national" without being an "alien", so long as you live and were born on nonfederal land in the sovereign 50 states of the union.

If you would like an entire memorandum of law useful in court that accurately describes what a "nonresident alien" is from a statutory perspective, see:

Non-Resident Non-Person Position, Form #05.020  
<http://sedm.org/Forms/FormIndex.htm>

### 3.9.1.15 **"Person" (in 26 U.S.C. §7701 (a)(1))**

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Person

Element	Definition
<b>Context:</b>	“Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements...,” –Portion of Sec 6001, Chap. 61, I.R.C.
<b>Internal Rev. Code:</b>	(1) Definition found in Chapter 79. –Definitions* Sec. 7701(a)(1) Person. The term “person” shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation. [NOTE: Chapter 61 of the IRC contains sections 6001 and 6011, in which context the word “person” is found. Definitions for certain words in each chapter are usually found within the chapter. The word “person” is not defined in Chapter 61; thus Chapter 79’s definition holds.] (2): Definition found in Chapter 75. Sec. 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.
<b>Black’s Law Dictionary:</b>	In general usage, a human being (i.e., natural person), though by statute term may include a firm, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
<b>Webster’s:</b>	1) an individual human being, especially as distinguished from a thing or lower animal; an individual man, woman or child. ..6) in law, any individual or incorporated group having certain legal rights and responsibilities.

1 Interestingly, the above word “individual” used in the definition of “person” is never defined anywhere in the Internal  
2 Revenue Code, so we have to use the definition from the legal dictionary. Don’t use the definition from the conventional  
3 dictionary or you’ll really confuse yourself! Here is the definition of “individual” in Black’s Law Dictionary, Sixth Edition,  
4 p. 907, we find:

5 **Individual.** *As a noun, this term denotes a single person as distinguished from a group or class, and also, very*  
6 *commonly, a private or natural person as distinguished from a partnership, corporation, or association; **but it is***  
7 ***said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper cases,***  
8 ***include [be limited to] artificial persons.***  
9 *[Black’s Law Dictionary, Sixth Edition, p. 907]*

10 So naming “individuals” as “persons” liable for tax in 26 U.S.C. §7701(a)(1) still doesn’t necessarily imply natural persons  
11 like you and me, and according to the above legal definition, “individual” most commonly refers to artificial persons, which  
12 in this case are corporations and partnerships as pointed out in chapter 5 extensively. The only thing Congress has done by  
13 using the word “individual” in the definition of “person” is create a circular definition. Such a circular definition is also  
14 called a “tautology”: a word which is defined using itself, which we would argue doesn’t define anything! If Congress wants  
15 to include natural persons as those liable for the income tax, then they must explicitly say so or the Internal Revenue Code is  
16 void for vagueness. Therefore, we must conclude that “persons” may only mean artificial entities unless and until Congress  
17 explicitly and clearly specifies otherwise.

18 *“In view of other settled rules of statutory construction, which teach that a law is “Keeping in mind the well-*  
19 *settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal***  
20 ***language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those***  
21 ***upon whom the tax is sought to be laid.**”*  
22 *[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904)]*

23 People generally consider the term "person" to mean a natural person. But, IRC Section 7701(a)(1), entitled "Definitions",  
24 includes an individual, corporation, a trust, an estate, a partnership, an association, or company as being a "person". All of  
25 these legal entities are "persons" at law, so it is legally correct but very misleading when the federal income (excise) tax on  
26 corporations is described by the deceptive title of "Personal Income Tax". This misleading description leads most people to  
27 incorrectly believe that it means a tax on natural persons.

28 "Persons" are actually divided into two main groups:

- 29 1. A Natural Born person (what most people think of as a "person").  
30 2. A "legal fiction" that exists because of a privilege granted by government, including corporations, associations,  
31 partnerships, companies, etc.

1 There is a big difference between the legal rights of a natural person and an artificial person and the distinction is never  
 2 explained or clarified anywhere in the U.S. Code or Internal Revenue Code. The latter are subject to the Uniform Commercial  
 3 Code (U.C.C.) and have no constitutional *rights* under the Bill of Rights. Instead, their *rights* are defined and circumscribed  
 4 by the *privileges* granted to them solely by the government within the laws written and enforced by that government. Natural  
 5 born persons, on the other hand, have fundamental constitutional *rights* that "legal fictions" don't. For instance, a natural  
 6 born person cannot, under the 5th Amendment, be compelled to testify against himself in a court of law, but a "legal fiction",  
 7 such as a corporation can be compelled because it depends on privileges and recognition granted by the government for its  
 8 existence and therefore falls under the jurisdiction of that government. That is why the constitution permits income taxes as  
 9 indirect, excises placed upon "legal fictions", such as corporations, businesses, partnerships, trusts, etc., while it does not  
 10 permit direct taxes on "natural born persons", which are not "legal fictions" but instead creations of God with inalienable  
 11 rights, and whose creation and existence precedes and supersedes that of government. You could say that the obligation to  
 12 pay taxes on the part of a "legal fiction" like a corporation is part of the price paid for the right to exist and have the entity  
 13 recognized and protected by the government and the courts. For instance, one benefit that corporations have that natural born  
 14 persons don't have is limited liability, where individuals within the corporation aren't personally liable for the financial  
 15 obligations of the company. This *privilege or right of a corporation*, which is recognized in the law and by the courts, comes  
 16 with a price. That price is the obligation of the corporation to pay income taxes as excises to the government.

17 The legal term "person" has an even more restricted definition when used in IRC Chapter 75, which contains all the criminal  
 18 penalties in the Code. In Section 7343 of that Chapter, a "person" subject to criminal penalties is defined as: ...

19 *[A]n officer or employee of a corporation, or a member or employee of a partnership, who, as such officer,*  
 20 *employee or member, is under a duty to perform the act in respect of which the violation occurs.*

21 An individual who is not in such a fiduciary capacity is not defined as a "person" subject to criminal penalties. Unprivileged  
 22 natural persons, who do not impose the income (excise) tax upon themselves by volunteering to file returns and be liable, are  
 23 not subject by law to the tax and they are not "persons" who can lawfully be subjected to criminal charges for not filing a  
 24 return or not paying income tax. Sections of the Code relating to the requirements for filing returns, keeping records, and  
 25 disclosing information state that those sections apply to "every *person* liable" or "any *person* made liable". These descriptions  
 26 mean "any person who is liable for the tax". *They do not state or mean that all persons are liable.* The only *persons* liable  
 27 are those "persons" (legal entities such as corporations or employees or corporations) who owe an income (excise) tax, and  
 28 are therefore subject to the requirements of the IRC. If you substitute the word "corporation" for the term "person" (a  
 29 corporation is a person at law) when reading the Code or other articles and publications relating to income tax, the true  
 30 meaning of the Code becomes more apparent.

31 For further information about what the court's think about this section, read some of the cites in section 5.7 of the *Tax Fraud*  
 32 *Prevention Manual*, Form #06.008, which talks about "not a person" and read the court cases that are cited. Note that all the  
 33 cases cited by Mr. Becraft in that section are at the circuit court level and none are at the U.S. Supreme Court level. The only  
 34 authoritative cites, according to the Internal Revenue Manual, are those that come from the Supreme Court.

### 35 3.9.1.16 "Personal services" (not defined)

36 The term "personal services" is nowhere defined in the Internal Revenue Code and is defined only once in the entire 26 C.F.R.  
 37 That definition is indicated below:

38 *26 C.F.R. §1.469-9 Rules for certain rental real estate activities.*

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

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

43 Note that the term "personal services" is used in conjunction with "trade or business", which we will learn later in section  
 44 3.9.1.23 means an activity connected with the holding of public office. Why a public office? Because Subtitle A income  
 45 taxes are excise taxes on federal corporate privileges. The U.S. government is a federal corporation and the officers of the  
 46 corporation are in receipt of excise taxable privileges. We clarify this further in section 5.6.5, where we prove that "income"  
 47 means profit from a corporation involved in foreign (overseas) commerce.

United States Code  
 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.

Why must "personal services" always be connected with a "trade or business"? Because Subtitle A income taxes are actually salary taxes on elected or appointed officials of the United States Government as enacted into law in the Public Salary Tax Act of 1939, 76<sup>th</sup> Congress, 1<sup>st</sup> Session, Chap. 59, pgs 574-579! The "public" in the title of that act means public office:

**Public Salary Act of 1939, TITLE I**—"Section 1. §22(a) of the Internal Revenue Code relating to the definition of 'gross income', is amended after the words 'compensation for personal service' the following: 'including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing.'"

### 3.9.1.17 "Required" (not defined)

Element	Definition
<b>Word:</b>	Required
<b>Context:</b>	26 U.S.C. §6012(a)(1)(A). Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be <b>required</b> of an individual -
<b>Internal Rev. Code:</b>	(undefined)
<b>Black's Law Dictionary:</b>	Submission, obedience, conformance
<b>Webster's:</b>	1) to demand; to ask or claim as by right or authority;...3) to order; to command; to call upon to do something.
<b>Comment:</b>	In my opinion, "required" means when one is compelled to do something by written authority; in this case, file a tax return. Further, when something is "required" by law, there is usually a corresponding penalty attached for not doing the "required" act.

The word "required" does not necessarily mean "liable". To give you an example of how tricky the use of the above section 6012 of the Internal Revenue Code is, consider the following:

- The title of 26 U.S.C. §6012 says "**Persons required to make returns of income**" BUT, the title of a code section cannot be interpreted as law by the following statute:

United States Code  
 TITLE 26 - INTERNAL REVENUE CODE  
 Subtitle F - Procedure and Administration  
 CHAPTER 80 - GENERAL RULES

Subchapter A - Application of Internal Revenue Laws Sec. 7806. Construction of title

b) Arrangement and classification

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion of this title, **nor shall any table of contents, table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title be given any legal effect.** The preceding sentence also applies to the sidenotes and ancillary tables contained in the various prints of this Act before its enactment into law

- If you look inside the section, the section does not state who is "required" or "liable" to file returns, only who is not "required" to file. It instead uses the term "shall be made" in 6012(a), which we will learn in the following section can mean "may be made".

3.9.1.18 "resident" (in 26 U.S.C. §7701(b)(1)(A))

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Resident
<b>Context:</b>	26 U.S.C. §7701(a)(30) definition of "U.S. person"
<b>Internal Rev. Code:</b>	26 U.S.C. §7701(b)(1)(A)
<b>Black's Law Dictionary:</b>	<p><b>Resident.</b> "Any <u>person</u> who occupies a dwelling within <u>the State</u>, has a present intent to remain within <u>the State</u> for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within <u>the State</u> together with indicia that his presence within <u>the State</u> is something other than <u>merely transitory in nature</u>. The word "resident" when used as a noun means a dweller, habitant or occupant; one who resides or dwells in a place for a period of more, or less, duration; it signifies one having a residence, or one who resides or abides. [<b>Hanson v. P.A. Peterson Home Ass'n</b>, 35 Ill.App2d. 134, 182 N.E.2d. 237, 240] [Underlines added]</p> <p>Word "resident" has many meanings in law, largely determined by <u>statutory context</u> in which it is used. [<b>Kelm v. Carlson</b>, C.A.Ohio, 473, F.2d. 1267, 1271] [Black's Law Dictionary, Sixth Edition, p. 1309]</p>
<b>Webster's:</b>	<p><b>resident:</b> One who has a residence in a particular place but does not necessarily have the status of a citizen. Note that even when a person is not a resident, he or she may <i>elect</i> to be treated as a resident with his or her consent. The rules for electing to be treated as a resident are found in IRS Publication 54: Tax <i>Guide for U.S. Citizens and Resident Aliens Abroad</i>. [Merriam Webster's Dictionary of Law]</p>

In all tax laws throughout the world that we have seen, "resident" universally means an alien. This is consistent with the definition of "resident" found in The Law of Nations, Vattel which was used by the Founding Fathers to write the Constitution.

*"Residents, as distinguished from citizens, are aliens who are permitted to take up a permanent abode in the country. Being bound to the society by reason of their dwelling in it, they are subject to its laws so long as they remain there, and being protected by it, they must defend it, although they do not enjoy all the rights of citizens. They have only certain privileges which the law, or custom, gives them. Permanent residents are those who have been given the right of perpetual residence. They are a sort of citizens of a less privileged character, and are subject of the society without enjoying all its advantages. Their children succeed to their status; for the right of perpetual residence given them by the State passes to their children."*

[The Law of Nations, Vattel, p. 87;

SOURCE: <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-LawOfNations.pdf>]

The above definition is also consistent with that found in 26 U.S.C. §7701(b)(1)(A) , which is the only definition of "resident" in the Internal Revenue Code:

[26 U.S.C. §7701\(b\)\(1\)\(A\) Resident alien](#)

(b) Definition of *resident alien* and nonresident alien

(1) In general

For purposes of this title (other than subtitle B) -

(A) *Resident alien*

*An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):*

(i) *Lawfully admitted for permanent residence*

*Such individual is a lawful permanent resident of the United States at any time during such calendar year.*

(ii) *Substantial presence test*

1 Such individual meets the substantial presence test of paragraph (3).

2 (iii) First year election

3 Such individual makes the election provided in paragraph (4).

4 To put it even more succinctly, a resident is an alien with a domicile or "residence" in the "United States", which is defined  
5 in [26 U.S.C. §7701](#)(a)(9) and (a)(10) as the District of Columbia ONLY. If you don't maintain a domicile there, then you  
6 aren't a "resident" even if you are an alien and live there. This is more carefully thoroughly explained later in section 5.4.7  
7 through 5.4.7.14. An alien who is present somewhere but does not have a domicile there is called a "transient foreigner".

8 *"Transient foreigner. One who visits the country, without the intention of remaining."*  
9 [Black's Law Dictionary, Sixth Edition, p. 1498]

10 A "transient foreigner" is someone who chooses not to obtain his protection from the government in the place where he lives.  
11 If he has no domicile in any country on earth, such as in heaven, then he is a nontaxpayer everywhere on earth. Taxes pay  
12 for protection and those who provide their own protection and choose no earthly domicile essentially have fired all  
13 governments on earth and taken responsibility to provide their own protection. It is their natural right to do so pursuant to  
14 the First Amendment, which guarantees us a right of freedom from compelled association.

### 15 3.9.1.19 "Shall" actually means "May"

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Shall
<b>Context:</b>	"Returns with respect to income taxes under Subtitle A shall be made by the following:..." –Sec. 6012, I.R. Code as referred to by IRS Privacy Act Notice 609, Rev. Oct. 1986
<b>Internal Rev. Code:</b>	(undefined)
<b>Black's Law Dictionary:</b>	As used in statutes, contracts or the like, this word is generally imperative or mandatory in common ordinary parlance, and in its ordinary signification, the term "shall" is a word of command, and one which has always or which must be given a compulsory meaning; as denoting obligation. It has a peremptory meaning, and it is generally imperative or mandatory. It has the invariable significance of excluding the ideas of discretion, and has the significance of operating to impose a duty which may be enforced, particularly if public policy is in favor of this meaning, or when addressed to public officials, or when a public interest is involved, or where the public person have rights which ought to be exercised or enforced, unless a contrary intent appears. <i>People v. O'Rourke</i> , 124 Cal. App. 752, 13P.2d 989, 992. But it may be construed as merely permissive or directory (as equivalent to "may,") to carry out the legislative intention and in cases where no right or benefit to anyone depends on its being taken in the imperative sense, and where no public or private right is impaired by its interpretation in the other sense. <i>Wisdom v. Board of Supp'rs of Polk County</i> , 236 Iowa 669, 19 N.W.2d. 602, 607, 608.
<b>Webster's:</b>	(a) to express futurity in the first person, and determination, compulsion, obligation, or necessity in the second and third persons.

16 In general use, the word "shall" is a word of command with a mandatory meaning. In the IRC, "shall" is a directory word that  
17 has a mandatory meaning when applied to corporations. The IRC contains a series of directory statutes using the word "shall"  
18 in describing the actions called for in those sections of the law. The provisions of these directory statutes are requirements  
19 for corporations, because corporations are created by government and, consequently, are subject to government direction and  
20 control. Since corporations are granted the privilege to exist and operate by government-issued charters, they do not have the  
21 constitutionally guaranteed rights of individuals. This government-granted privilege legally obligates corporations to make a  
22 "return" of profits and gains earned in the exercise of their privileged operations when directed to do so by law. This is why  
23 the tax form is called a "return".

24 However, directory words in the Code merely imply that individuals are required to perform certain acts, but directory words  
25 are not requirements for individuals when a mandatory interpretation of the directory words would conflict with the  
26 constitutionally guaranteed rights of natural persons/individuals. Courts have repeatedly ruled that in statutes, when a  
27 mandatory meaning of the word "shall" would create a constitutional conflict, "shall" must be defined as meaning "may".

1 The following are quotes from a few of these decisions. In the decision of *Cairo & Fulton R.R. Co. v. Hecht*, 95 U.S. 170,  
2 the U.S. Supreme Court stated:

3 *As against the government the word "shall" when used in statutes, is to be construed as "may," unless a contrary*  
4 *intention is manifest.*

5 In the decision of *George Williams College v. Village of Williams Bay*, 7 N.W.2d. 891, the Supreme Court of Wisconsin  
6 stated:

7 *"Shall" in a statute may be construed to mean "may" in order to avoid constitutional doubt.*

8 In the decision of *Gow v. Consolidated Coppermines Corp.*, 165 Atlantic 136, the court stated:

9 *If necessary to avoid unconstitutionality of a statute, "shall" will be deemed equivalent to "may" ....*

10 Sections 6001 and 6011 of the IRC are cited in the Privacy Act notice in the IRS 1040 instruction booklet in order to lead  
11 individuals to believe they are required to perform services for tax collectors. Note the use of the word "shall" in the following  
12 sections of the Code:

13 Section 6001 states:

14 *Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render*  
15 *such statements, make such returns, and comply with such rules and requirements as the Secretary may from time*  
16 *to time prescribe.*

17 Section 6011 states:

18 *When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this*  
19 *title, or for the collection thereof, shall make a return or statement according to the forms and regulations*  
20 *prescribed by the Secretary.*

21 Note that Sections 6001 and 6011 apply to "every person liable" and "any person made liable", but not to natural persons  
22 (people like you and me). However, **THERE IS NO SECTION IN SUBTITLE A OF THE IRC THAT MAKES**  
23 **INDIVIDUALS LIABLE FOR PAYMENT OF INCOME TAX** because any law imposing a federal tax on individuals would  
24 be unconstitutional, for it would violate the taxing limitations in the U.S. Constitution which prohibit direct taxation of  
25 individuals by the federal government. People are often confused when reading the Code because, under Subtitle A, Chapter  
26 1, which covers income taxes, Part 1 of Subchapter A has the misleading title of "Tax on Individuals". The title is misleading  
27 because Part 1 imposes the tax on "income", but contains no requirement for individuals to pay it. But an individual becomes  
28 a "person liable" for the tax when he files an income tax form, thereby swearing that he is liable for (owes) the tax, even if  
29 he technically didn't owe anything!

30 The Privacy Act notice in the instruction booklet for IRS Form 1040 also shows that disclosure of information by individuals  
31 is not required. The notice states:

32 *Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011 and their regulations.*

33 The IRS does not say that those sections require individuals to submit the information; those sections only give the IRS the  
34 authority to ask for it.

35 Section 6012 states:

36 *Returns with respect to income taxes under Subtitle A shall be made by the following: (1)(A) Every individual*  
37 *having for the taxable year gross income which equals or exceeds the exemption amount ...."*

38 Subsections (2) through (6) list corporations, estates, trusts, partnerships, and certain political organizations as also being  
39 subject to this section.

40 Any requirements compelling unprivileged individuals to keep records, make returns and statements, or to involuntarily  
41 perform any other services for tax collectors, would be violations of constitutionally guaranteed rights.

1 The Thirteenth Amendment to the United States Constitution forbids compelling individuals to perform services  
2 involuntarily. The Amendment states:

3 Neither slavery nor involuntary servitude, except as punishment for crimes whereof the party shall have been duly convicted,  
4 shall exist within the United States, or any place subject to their jurisdiction.

5 The Fourth Amendment in the Bill of Rights of the United States Constitution states that the people's right to privacy of their  
6 papers shall not be violated by government. To compel individuals to disclose information taken from their papers would  
7 violate this right.

8 The Fifth Amendment in the Bill of Rights protects the right of individuals not to be required to be witnesses against  
9 themselves. To compel individuals to disclose information by submitting statements or information on a tax return form, all  
10 of which could be used against them in criminal prosecutions, would violate their Fifth Amendment right.

11 These examples show some constitutional conflicts that would result from defining the word "shall" as meaning "is required  
12 to". Thus, "shall" in the above mentioned statutes must be interpreted as meaning "may". Consequently, for individuals,  
13 keeping records, making statements, and making returns are clearly voluntary actions that are not required by law.

#### 14 **3.9.1.20 "State" (in 26 U.S.C. §7701 (a)(10))**

15 *State*

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

18 After reading this, do you live in a "State". I don't! Can Congress write clear laws? Some people look at this and say: "This  
19 must be a mistake. Why would they write this?" Below is a Supreme Court Cite that might help explain why:

20 *"The law of Congress in respect to those matters do not extend into the territorial limits of the states, but have*  
21 *force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national*  
22 *government."*  
23 *[Caha v. United States, 152 U.S. 211 (March 5, 1894)]*

24 Another confirmation of the meaning of "State" can be found in the Buck Act of 1940, which is contained in 4 U.S.C. Sections  
25 105-113. Section 110(d) defines "State" as follows:

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

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

29 While we can't use this definition within the context of the IRC, it does help explain why Congress didn't define the meaning  
30 of "State" better in the IRC...because they would have to admit that they have no jurisdiction to impose income taxes! You  
31 will find out in detail in later sections that the definition of "State" in the IRC above actually means federal possessions and  
32 territories, to include the District of Columbia, Puerto Rico, Guam, etc. We refer to this area as "the federal zone". The  
33 federal zone DOES NOT include the 50 Union states. We refer you to section 5.6.12.2 entitled "The definition of the word  
34 'state', key to understanding Congress' limited jurisdiction to tax personal income" for a fascinating and complete discussion  
35 of why we reach this startling conclusion.

36 Finally, the District of Columbia qualifies as a "State", which is part of the federal zone or federal United States\*\*:

37 *4 U.S.C.S. §113*

38 *"(2) the term 'State' includes the District of Columbia."*

39 However, the District of Columbia does not qualify as a "state", all of which are outside the federal United States\*\*:

40 *"1. The District of Columbia and the territories are not states within the judicial clause of the Constitution giving*  
41 *jurisdiction in cases between citizens of different states." O'Donoghue v. United States, 289 U.S. 516, 53 S.Ct.*  
42 *740 (1933)*

**3.9.1.21 "Tax" (not defined)**

After reading all the laws referenced in this section, it is quite reasonable for one to ask why what is described in the Internal Revenue Code is called a "tax" at all insofar as most Americans living in the states with only earnings from within the 50 Union states are concerned. Aren't taxes something we *have* to pay? In the case of federal income taxes on citizens living and working in the 50 Union states, they aren't! In reality, the contributions to the federal government described by the Internal Revenue Code amount to a "charitable donation" to the U.S. Government for American nationals living and working in the 50 Union states who do not have foreign income!

In the case of all other types of gifts that we give to friends and loved ones, people thank you for your donation. But in the case of the U.S. Government, they wrongfully prosecute, intimidate, harass, and even imprison you for "failure to file", or in this case "failure to volunteer to gift your income" to the government. Now isn't that nice of them? In every other walk of life, this kind of treatment is called extortion and people are sent to prison for it. In the case of the U.S. Government, a judicial conspiracy founded on the complete disregard for the petition clause of the constitution (see section 5.12 of the *Tax Fraud Prevention Manual*, Form #06.008 on How the Federal Judiciary Stole the Right to Petition), stealth, complex legalese in the tax code, and intimidation tactics by the IRS in ignoring our legal questions, and violation of our 5<sup>th</sup> and 14<sup>th</sup> Amendment due process rights by taking of property without a trial by jury, is what continues to feed the socialist U.S. Government beast that oppresses us with this kind of tyranny. If we "stole" property from people the way the government does to us, however, we would go to jail. That is clearly a pernicious evil that we must surely rid ourself of as a country.

**3.9.1.22 "Taxpayer" (in 26 U.S.C. §7701 (a)(14))**

*Taxpayer*

*The term "taxpayer" means any person subject to any internal revenue tax.*

This same definition is repeated in 26 U.S.C. §1313(b):

*26 U.S.C. §1313(b)*

*(b) Taxpayer*

*Notwithstanding section 7701(a)(14), the term "taxpayer" means any person subject to a tax under the applicable revenue law.*

The deceptive term "taxpayer" is a legal term created by combining the words "tax" and "payer". The general understanding of the term's meaning is different from its legal definition in the I.R.C. Section 7701(a)(14) gives the legal definition of the term "taxpayer" in relation to income tax. It states: "The term 'taxpayer' means any person subject to any internal revenue tax." (All internal revenue taxes are excise taxes.) Note that the section does not say that all persons are "taxpayers" subject to internal revenue tax. Corporations are "taxpayers", for they are "persons" subject to an internal revenue (excise) tax.

The term "taxpayer" is used extensively throughout the IRC, in IRS publications, news articles, and instructional literature as a verbal trap to make uninformed Citizens believe that all individuals are subject to federal income tax and to the requirements of the IRC. These materials state that "taxpayers" are required to file returns, keep records, supply information, etc. Such statements are technically correct, because "taxpayers" are those legal "persons" previously described that are subject to an excise tax, but unprivileged individuals are not "taxpayers" within the meaning of the IRC. The confusion about the meaning of the term leads most people to mistakenly assume that they are "taxpayers" because they pay other taxes such as sales taxes and real estate taxes. Those people are tax payers, not "taxpayers" as defined in the IRC. When they read articles and publications related to income tax, describing the legal requirements for "taxpayers", they erroneously believe that the term applies to them as individuals. It is very important to understand that the IRC requirements apply to IRC-defined "taxpayers" only, and not to unprivileged individuals. Corporations and other government-privileged legal entities are "taxpayers under the Internal Revenue Code"; unprivileged individuals are not, unless they voluntarily file income tax returns showing they owe taxes, thus legally placing themselves in the classification of "taxpayers". Because of its legal definition, the term "taxpayer" should never be used in relation to income tax, except to describe those legal entities subject to a federal excise tax.

Why does Congress and the IRS want to refer to us as "taxpayers" instead of "Citizens" in the Internal Revenue Code, the Code of Federal Regulations, and the IRS Publications? Because then you as a Citizen would start looking in the index for

1 the U.S. Codes and find out that there are **no references to liability for taxes as Citizens!** They would also have to  
 2 start talking about your constitutional rights as an American, and the fact is that *you have no constitutional rights as a statutory*  
 3 *"U.S. Citizen"* (see *Downes v. Bidwell*, 182 U.S. 244 (1901)), but you do as a Citizen of the United States of America, or the  
 4 [u]nited States! The words you use in describing yourself make all the difference in the world! So instead of calling you a  
 5 Citizen and then having to justify what makes you a taxpayer, they try to fool you by calling *everyone* taxpayers and then  
 6 never defining anywhere in the Internal Revenue Code who specifically is and is not personally liable for paying income  
 7 taxes, and by arrogantly and petulantly refusing to discuss such issues with you when you call the IRS 800 help number so  
 8 they can claim "plausible deniability" of the fraud that is going on! They leave the risk entirely up to you in deciding if you  
 9 are a taxpayer and give you no help whatsoever in deciding what to believe. **In effect, they make it so complicated,**  
 10 **expensive (hiring lawyers), and so bothersome to keep your money and have your constitutional rights**  
 11 **to privacy and property respected, that you just give up in laziness, apathy, disorganization, disgust,**  
 12 **and ignorance and surrender 50% of your income to the various taxes that we all pay! That, in a**  
 13 **nutshell, describes how the personal income tax game works. Leave it up to the devious lawyers in**  
 14 **Washington to devise such a game and shame on us for electing people like that to public office! We**  
 15 **owe it as a patriotic duty to our children and our fellow Americans to ensure that this kind of**  
 16 **racketeering, chicanery, and extortion be stopped immediately! We must take out this kind of trash**  
 17 **from office immediately!**

### 18 3.9.1.23 "Trade or business" (in 26 U.S.C. §7701 (a)(26))

19 *The term "trade or business" includes the performance of the functions of a public office.*

20 All income that derives from sources "within" the United States\*\* (the District of Columbia and other federal territories but  
 21 not the nonfederal areas of the 50 Union states) requires receipt of privileges and respects the fact that the income tax is an  
 22 excise tax on "privileges" as ruled many different times by the U.S. supreme Court. Holding public office is a government  
 23 "privilege", just as existing as a corporation is a privilege, and therefore both are subject to the income tax because both occur  
 24 in federal territories over which the U.S. has exclusive legislative jurisdiction.

25 Even if we aren't an elected U.S.\*\* public official, millions, if not most people, ignorantly claim they are involved in a "trade  
 26 or business" and thereby make themselves liable for the income tax. For instance, when we file an IRS Form 1040, this is  
 27 exactly what we do. We in effect make an "Election to treat our income and property as effectively connected with a trade  
 28 or business in the U.S.\*\*" as described in 26 C.F.R. §1.871-10 and IRS Publication 54 (called a "Choice" in that publication).  
 29 That makes us liable for the graduated income tax found in 26 U.S.C. §871. The reason people don't realize what they are  
 30 doing when they commit this error is because they haven't read the law for themselves and have relied exclusively on IRS  
 31 publications that are a fraud (see Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 (05-14-1999)) and on hearsay from  
 32 friends and family members, as well as ignorant IRS employees and employers who have never read the law for themselves.

33 Those who file as a "nonresident alien" under 26 U.S.C. §871(b) makes our income derived from a "trade or business in the  
 34 United States\*\*" taxable, which as shown above is a code word for saying that we have income derived from holding elected  
 35 or appointed federal public office. Most of us don't have this type of income, but the IRS publications never define the  
 36 meaning of "trade or business" and that is how we are deceived into volunteering into the income tax system by the IRS.  
 37 Juries in federal courts are deceived about this because judges don't allow the law to be discussed in the courtroom, thus  
 38 perpetuating the fraud and abuse of citizens' rights. After we make our initial "election" by filing our first 1040 form, we  
 39 have a year to revoke the election and thereafter, according to 26 C.F.R. §1.871-10, we must ask the IRS for permission to  
 40 revoke the election, or we must file an IRS form 1040NR and include certain information with our return, as indicated in IRS  
 41 publication 54 under "Ending your choice". If we never bother to revoke our election, then we will continue to be subject to  
 42 the jurisdiction of the federal courts to force us to pay graduated income taxes as a public official. Isn't that sneaky?

### 43 3.9.1.24 "United States" (in 26 U.S.C. §7701 (a)(9))

44 *United States*

45 *The term "United States" when used in a geographical sense includes only the States and the District of Columbia.*

1 The above phrase “the States” ought to look familiar because it is a federal State. Remember the title of the Buck Act found  
2 in 4 U.S.C. §110(d)?

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

4 *CHAPTER 4 - **THE STATES***

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

6 You will also note that "States" is the plural for State, which was defined in 26 U.S.C. §7701 as the District of Columbia.  
7 Under this definition, California, for instance, is NOT a State because it is not a territory or possession of the United States.  
8 It is, instead, a sovereign entity of its own. See section 5.2.8 later for further details on this important subject. Rewriting the  
9 above definition with the definition for State found in section 3.9.1.20 above (26 U.S.C. §7701), we have the following  
10 definition for “United States”:

11 *United States*

12 *The term "United States" when used in a geographical sense includes only the District of Columbia and the*  
13 *District of Columbia.*

14 The tricky IRS lawyers who wrote the tax code knew they couldn’t explicitly define “States” as all of the geographical 50  
15 states in the union, because these states are sovereign, which is why Britain had to sign 13 separate treaties after the War of  
16 Independence instead of just one. The sovereign 50 Union states are also outside the territorial jurisdiction of the United  
17 States Government. Therefore, they tried to fool readers of the tax code above into thinking that United States refers  
18 geographically to the 50 Union states, but they would have stated this directly if that is indeed what they meant. See sections  
19 4.5 and especially 5.2.4 for further details on the meaning of the term “United States” found in the Internal Revenue Code.

### 20 **3.9.1.25 "U.S. Citizen" (26 U.S.C. §3121(e))**

21 Are you a “citizen of the United States” under federal statutes and “acts of Congress”? YES or NO? Here’s the definition  
22 of “citizen of the United States” directly from the Treasury Regulations:

23 *26 C.F.R. 31.3121(e)-1 State, United States, and citizen.*

24 *(b)...The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin*  
25 *Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.*

26 The answer to the question asked above, "Are you a United States citizen?" (in most cases), is emphatically:

27 ***NO!***

28 Incidentally, you can be a “citizen of the United States” under Section 1 of the Fourteenth Amendment without being a  
29 “citizen of the United States” under federal statutes such as 8 U.S.C. §1401. Why? Because the term “United States” has a  
30 completely different meaning in the U.S. Constitution than it has in most federal statutes. In federal statutes, the term “United  
31 States” means the federal zone or federal “United States” while in the Constitution, it means the collective states of the Union.  
32 The federal government exploits this confusion over definitions to their advantage in order to illegally expand their  
33 jurisdiction. In fact, the only people who are “citizens of the United States” under 8 U.S.C. §1401 are those persons who are  
34 born in the District of Columbia, Guam, Virgin Islands, and Puerto Rico, according to 8 U.S.C. §1101(a)(36), 8 U.S.C.  
35 §1101(a)(38), and 8 C.F.R. §215.1(f). Watch out!

36 Now if you are stupid enough and gullible enough to file a form 1040 and assess yourself with an unrealistic and mistaken  
37 income tax liability, amazingly, the only way the IRS agent can then process your form is to identify you in most cases as a  
38 resident of the Virgin Islands! No kidding! People like Dan Meador (<http://www.lawresearch-registry.org>) have studied the  
39 Individual Master File (IMF) of hundreds of individuals and determined that this indeed is exactly what the IRS agents do to  
40 process your 1040 form! Agents in fact have to lie to the AIMS computer and tell it you live in the Virgin Islands to get it to  
41 accept your 1040 return and your tax liability!

42 Barron's Law Dictionary indicates that in the United States, there are TWO types of citizenship:

"Citizenship is the status of being a citizen. In the United States there is usually a double citizenship, that is, citizenship in the nation and citizenship in the state in which one resides."

Generally in the United States one may acquire citizenship by birth in the United States or by naturalization therein. 59 S.Ct. 884...<sup>57</sup>

Here again, you have been tricked! The "United States" is the legal, proper, formal name, created by our founding fathers, for the home or seat of the "federal government" and its "territory!" In nearly all "acts of Congress" and federal statutes, it is the Proper Name for Federal Land (the District of Columbia and federal territories, including Puerto Rico, the Virgin Islands, etc.). Refer again to 26 U.S.C. §7701(a)(9) above for a definition of "United States".

The individual States, which joined forces and formed the "united States of America," should not be confused with the title of "United States," or "States", which is reserved for the District of Columbia and the territories controlled by the federal government. Obviously, in the light of what we have always thought we knew, this sounds a little bizarre.

However, the United States Supreme Court ([Editor's Note: This is the CORRECT capitalization of this name](#)) addressed the question of the meaning of the term "United States" in the case of *Hooven & Allison Co. v. Evatt* (1945).

**The court ruled that the term "United States" has three uses:**

1. "...either as the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations, or
2. "...as designating the territory over which the sovereignty of the United States (Federal government) extends, or
3. "...as the collective name for the states which are united by and under the Constitution."

In other words, the term "United States" means:

1. "These united States', or
2. "the District of Columbia and all other federal lands such as Puerto Rico, Virgin Islands, Guam, Marianas Islands, American Samoa, etc. or,
3. "The union of states which is the 'united States of America'."

So, assuming you were born in one of the 50 freely associated sovereign states of the Union, you are a Citizen (note Capitalization) and a national of the state in which you were born, and as a result are a Citizen of the Union of states known as the "united States of America," but you are not now, and never have been, a "citizen of the *United States*" under any federal statute or "act of Congress". If you have an American Passport, look at it. Notice that it is from the "United States of America" (NOT the "United States"), and that it does *not* contain a Social Security Number!

You will note that people who are "citizens of the United States" instead of the united States, who are living in the District of Columbia and federal territories, are *not* citizens of individual states and therefore they have no constitutionally-protected rights. This is what makes it legal to assess income taxes on them and to deprive them of their property without due process of law in violation of the constitutional rights that the rest of us enjoy. Please refer to section 4.7 for details on this important subject.

Another way to verify this is to read that marvelous founding document, the **Constitution**. Remember that the writers of this remarkable document were extremely well educated and articulate men. They knew the meaning of the words they used.

Please turn to Article 10, which is the Tenth Amendment:

Article [X]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."  
[underlines added]

<sup>57</sup> *Law Dictionary*, Barron's, Copyright 1996, ISBN 0-8120-3096-6, p. 77.

Obviously, the "United States" and the "States" used here CAN NOT be the same thing, or the sentence is redundant. The framers of the **Constitution** and the **Bill of Rights** knew exactly what they were writing -- that the powers not designated to the "federal" government were reserved to the several freely associated States and the people!

Remember that, under the **Constitution**, ALL power originated with the PEOPLE -- who delegated some of it to the States, which in turn delegated some of their power to the "federal" government to do those things for the Union that the individual states could not do well for themselves (foreign embassies, etc.).

The **Constitution** is designed to LIMIT the power of the "central" government, not expand it. The founding fathers had, after all, just fought the Revolutionary War to make sure that the new "central" government did not have the power, such as King George III exercised, to usurp the "unalienable rights" they had proclaimed in the **Declaration of Independence** ten years earlier.

Probably all your life, you've been told that you are a citizen of the United States. You were even intentionally taught this falsehood in school (which, no doubt was federally funded -- and had its curriculum in large measure dictated by Washington).

Well, *Congratulations!* **NOW** you know who you *really* are. And you know just a little bit of the freedom and power bequeathed to you by the architects of this incredible land.

What you have just learned about is an unprecedented **GRAB** for power by the "federal" government! (We do *not* have a "national" government.) In fact, Agents of the "federal" government have NO jurisdiction within the borders of these separate and sovereign united States -- *unless* you give it to them!

That includes agents of ANY federal government agency: EPA, IRS, *any* agency! They are foreign to the sovereign States!

### 3.9.1.26 "Voluntary" (undefined)

<i>Element</i>	<i>Definition</i>
<b>Word:</b>	Voluntary
<b>Context:</b>	"Our system of taxation is based upon voluntary assessment and payment, not distraint." <i>Flora v. U.S.</i> , 362 U.S. 145 (1960)
<b>Internal Rev. Code:</b>	(Undefined)
<b>Black's Law Dictionary:</b>	Unconstrained by interference; unimpelled by another's influence; spontaneous; Acting of oneself. <i>Coker v. State</i> , 199 Ga. 20, 33 S.E.2d. 171, 174
<b>Webster's:</b>	1) Brought about by one's own free choice; given or done of one's own free will; freely chosen or undertaken. ...7) arising in the mind without external constraint; spontaneous. 8) in law, (a) acting or done without compulsion or persuasion.
<b>Comment:</b>	In my opinion, the word "voluntary" means "done by an act of free choice."

### 3.9.1.27 "Wages" (in 26 U.S.C. §3401 (a))

For the purposes of collection of income taxes at the source by employers, the following definition of wages applies, as derived from 26 U.S.C. §3401(a):

(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 -*

- (1) for active service performed in a month for which such employee is entitled to the benefits of section 112 (relating to certain combat zone compensation of members of the Armed Forces of the United States) to the extent remuneration for such service is excludable from gross income under such section; or*
- (2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or*

- 1 (3) for domestic service in a private home, local college club, or local chapter of a  
 2 college fraternity or sorority; or  
 3 (4) for service not in the course of the employer's trade or business performed in any  
 4 calendar quarter by an employee, unless the cash remuneration paid for such service  
 5 is \$50 or more and such service is performed by an individual who is regularly  
 6 employed by such employer to perform such service. For purposes of this paragraph,  
 7 an individual shall be deemed to be regularly employed by an employer during a  
 8 calendar quarter only if -  
 9 (A) on each of some 24 days during such quarter such individual performs for such  
 10 employer for some portion of the day service not in the course of the employer's  
 11 trade or business; or  
 12 (B) such individual was regularly employed (as determined under subparagraph (A))  
 13 by such employer in the performance of such service during the preceding calendar  
 14 quarter; or  
 15 (5) for services by a citizen or resident of the United States for a foreign government or  
 16 an international organization; or  
 17 (6) for such services, performed by a nonresident alien individual, as may be designated  
 18 by regulations prescribed by the Secretary; or  
 19 (7) Repealed. Pub. L. 89-809, title I, Sec. 103(k), Nov. 13, 1966, 80 Stat. 1554)  
 20 (8)  
 21 (A) for services for an employer (other than the United States or any agency thereof) -  
 22 (i) performed by a citizen of the United States if, at the time of the payment of such  
 23 remuneration, it is reasonable to believe that such remuneration will be excluded  
 24 from gross income under section 911; or  
 25 (ii) performed in a foreign country or in a possession of the United States by such a  
 26 citizen if, at the time of the payment of such remuneration, the employer is  
 27 required by the law of any foreign country or possession of the United States to  
 28 withhold income tax upon such remuneration; or  
 29 (B) for services for an employer (other than the United States or any agency thereof)  
 30 performed by a citizen of the United States within a possession of the United States  
 31 (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the  
 32 remuneration to be paid to the employee by such employer during the calendar  
 33 year will be for such services; or  
 34 (C) for services for an employer (other than the United States or any agency thereof)  
 35 performed by a citizen of the United States within Puerto Rico, if it is reasonable to  
 36 believe that during the entire calendar year the employee will be a bona fide  
 37 resident of Puerto Rico; or  
 38 (D) for services for the United States (or any agency thereof) performed by a citizen of  
 39 the United States within a possession of the United States to the extent the United  
 40 States (or such agency) withholds taxes on such remuneration pursuant to an  
 41 agreement with such possession; or  
 42 (9) for services performed by a duly ordained, commissioned, or licensed minister of a  
 43 church in the exercise of his ministry or by a member of a religious order in the  
 44 exercise of duties required by such order; or  
 45 (10)  
 46 (A) for services performed by an individual under the age of 18 in the delivery or  
 47 distribution of newspapers or shopping news, not including delivery or distribution  
 48 to any point for subsequent delivery or distribution; or  
 49 (B) for services performed by an individual in, and at the time of, the sale of newspapers  
 50 or magazines to ultimate consumers, under an arrangement under which the  
 51 newspapers or magazines are to be sold by him at a fixed price, his compensation  
 52 being based on the retention of the excess of such price over the amount at which the  
 53 newspapers or magazines are charged to him, whether or not he is guaranteed a  
 54 minimum amount of compensation for such services, or is entitled to be credited with  
 55 the unsold newspapers or magazines turned back; or  
 56 (11) for services not in the course of the employer's trade or business, to the extent paid  
 57 in any medium other than cash; or  
 58 (12) to, or on behalf of, an employee or his beneficiary -  
 59 (A) from or to a trust described in section 401(a) which is exempt from tax under  
 60 section 501(a) at the time of such payment unless such payment is made to an  
 61 employee of the trust as remuneration for services rendered as such employee and  
 62 not as a beneficiary of the trust; or  
 63 (B) under or to an annuity plan which, at the time of such payment, is a plan described  
 64 in section 403(a); or  
 65 (C) for a payment described in section 402(h)(1) and (2) if, at the time of such payment,  
 66 it is reasonable to believe that the employee will be entitled to an exclusion under  
 67 such section for payment; or  
 68 (D) under an arrangement to which section 408(p) applies; or  
 69 (13) pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps  
 70 Act, for service performed as a volunteer or volunteer leader within the meaning of  
 71 such Act; or  
 72 (14) in the form of group-term life insurance on the life of an employee; or

- (15) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 (determined without regard to section 274(n)); or
- (16)
- (A) as tips in any medium other than cash;
- (B) as cash tips to an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is \$20 or more; [1]
- (17) for service described in section 3121(b)(20); [1]
- (18) for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129; [1]
- (19) for any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 74(c), 117, or 132; [1]
- (20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6)); or
- (21) for any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b).

Notice that the above legal definition of “wages” excludes “public officials”, and that Subtitle A of the I.R.C. describes a tax primarily upon “public offices”, which is what a “trade or business” is. Therefore, without looking elsewhere, we must conclude no one so far can earn “wages” as legally defined. So how do our corrupt feds turn compensation for labor into something that fits the legal definition “wages” above so it can be taxed? Once again, you have to dig deep into the regulations to find the secret:

**26 C.F.R. Sec. 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 (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 Sections 31.3401(c)-1 and 31.3401(d)-1 for the definitions of “employee” and “employer”.

So the bottom line is, if you fill out a W-4 and request voluntary withholding:

1. Even though you aren’t a STATUTORY “taxpayer” or “public official” engaged in a STATUTORY “trade or business”, then you begin earning “wages” as legally defined pursuant to 26 C.F.R. §31.3401(a)-3(a) above. The same scam is again repeated in 26 C.F.R. §31.3402(p)-1, which also creates a “presumption” that all amounts withheld constitute “gross income” that is therefore taxable pursuant to 26 U.S.C. §61.

**26 C.F.R. §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 includable 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.

2. The receipt of “wages” is reported on the IRS Form W-2. 26 U.S.C. §6041 says this is an information return that connects you with a “trade or business”, which is legally defined as “the functions of a public office” in 26 U.S.C. §7701(a)(26). Therefore, your earnings, after submitting an IRS Form W-4, become “trade or business” earnings that are excise taxable and prima facie “gross income” within the meaning of the I.R.C.
3. You have essentially been recruited into working for the Federal Government and your private employer is now hiring you as the equivalent of a Kelly Girl for the government.
4. If you started as a “nontaxpayer”, you have transformed your status into that of a “taxpayer”, unless and until you rebut the false IRS Form W-2 that will surely result from submitting the IRS Form W-4 to your private employer.

The above ruse is why we don’t recommend filling out W-4 Exempts and instead prefer to use the W-8 form. Note that we do not intend to convey the mistaken belief that “wages” are not taxable or are not “income”. They absolutely are. The issue is not whether they are taxable, but under what circumstances a person can earn them. A person who doesn’t submit a W-4 voluntary withholding form does not earn “wages” as legally defined in this section and no one can do any of the following without violating the law:

1. Force you to sign or submit this form as a condition of being hired or not fired.
2. Report anything but ZERO for “Wages, tips, and other compensation” on an IRS Form W-2 if you do not voluntarily sign and submit an IRS Form W-4. Even if the IRS commands the private employer to withhold at single zero, that withholding STILL can only be on the amount of “wages” earned, which are ZERO for a person who does not voluntarily sign a W-4 withholding agreement.
3. Put an SSN or TIN on any government form or report and send it in to the government without your voluntary consent. This is a violation of the Privacy Act of 1974, 5 U.S.C. §552a.

If you would like to know more about this subject, see the following free resources:

1. *Federal and State Tax Withholding Options for Private Employers*.  
<http://famguardian.org/Publications/FedStateWHOOptions/FedStateWHOOptions.pdf>
2. *Income Tax Withholding and Reporting*, Item 3.10  
<http://sedm.org/LibertyU/LibertyU.htm>
3. *Federal Tax Withholding*, Form #04.102  
<http://sedm.org/Forms/FormIndex.htm>
4. *Tax Withholding and Reporting: What the Law Says*, Form #04.103  
<http://sedm.org/Forms/FormIndex.htm>

### 3.9.1.28 **"Withholding agent" (in 26 U.S.C. §7701 (a)(16))**

*Withholding agent*

*The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.*

Section 1441 is entitled "Withholding of tax on nonresident aliens". Section 1442 is entitled "Withholding tax on foreign corporations". Section 1443 is entitled "Foreign tax-exempt organizations". Section 1461 is entitled "Liability for withheld tax" and provides that:

*"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."*

### 3.9.2 **26 U.S.C. §1: Tax Imposed**

This section of law is rather long and not worth repeating here. However, you download it from:

<https://www.law.cornell.edu/uscode/text/26/1>

To summarize what this section specifies:

A tax is imposed on the following:

1. Married individuals filing joint returns and surviving spouses.
2. Heads of households.
3. Unmarried individuals (other than surviving spouses and heads of households)
4. Married individuals filing separate returns.
5. Estates and trusts.
6. Adjustments in tax tables so that inflation will not result in tax increases.
7. Unearned income of minor children taxes as if parent's income.

It sets the maximum capital gains rate and defines how taxes on each of the above are to be computed. You will note, however, that the section does NOT indicate that such individuals are “liable” for paying the tax, and you have to be liable before you are obligated to file a return.

### 3.9.3 26 U.S.C. §61: Gross Income

This section of the Internal Revenue Code (IRC) defines "gross income". Gross income is the income that is listed on your W-2 form in block 10, called “Wages, tips, and other compensation”. This definition is used by all tax professionals.

*“Sec. 61. Gross income defined*

*(a) General definition - ... **gross income** means all income from whatever source derived, including (but not limited to) the following **items**:*

- (1) Compensation for services...;*
- (2) Gross income derived from business;*
- (3) Gains derived from dealings in property;*
- (4) Interest;*
- (5) Rents;*
- (6) Royalties;*
- (7) Dividends;... [more items listed]” [26 U.S.C. §61]*

Good, we know about these 'items'... we grew up hearing these 'items' repeated through the years as they are components of gross income, right? These above items have been indicated by amateurs and tax professionals alike to be 'sources'... yet it is argued by many that they are NOT 'sources'. That there is a difference between 'items' and 'sources'. It gets easier...

Take NOTICE: The IRS has claimed in a case in South Carolina that § 861 has nothing to do with gross income in § 61. This did not last long as the Department of Justice was quickly reaching for things within § 861, without regarding the full effect of the attached regulations, to try to support their frail position. This seems to open up the application of the statute and regulations into the argument of gross income before the court and the public. If that were not enough, they also have to try to defeat this:

### 3.9.4 26 U.S.C. §63: Taxable income defined

*26 U.S.C. §63 Taxable income defined*

*(a) In general*

*Except as provided in subsection (b), for purposes of this subtitle, the term "taxable income" means gross income minus the deductions allowed by this chapter (other than the standard deduction).*

*(b) Individuals who do not itemize their deductions*

*In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term "taxable income" means adjusted gross income, minus -*

- (1) the standard deduction, and*
- (2) the deduction for personal exemptions provided in section 151.*

*[...]*  
*(g) Marital status*

*For purposes of this section, marital status shall be determined under section 7703.*

This section defines how to compute taxable income. The above quote does not include the entire section, but shows the important part of the section. This section clearly shows that taxable income is gross income minus deductions. Implicit in this statement is the idea that the gross income must derive from a taxable “source”, as defined in 26 U.S.C. §861, as we will see in the next section.

### 3.9.5 26 U.S.C. §861: Source Rules and Other Rules Relating to FOREIGN INCOME

A taxable “source” ties a tax to a geographical boundary and/or some commercial activity or event within that boundary, in the case of excise taxes. 26 U.S.C. §61 defines that the federal tax is on “income from whatever source derived”. This section defines the meaning of the word “source” used in section 61 and it is the *only* section in Title 26 and the primary section that ties the U.S. federal income tax to any kind of geographical boundary. If it weren’t for this section, then the Internal Revenue Code would be so general and non-specific (in talking only about taxes on types of income and not relating these taxes to geographical boundaries) that it would apply to *everyone in the world!* The authority for what is stated in this section derives mainly from the Constitution of the United States, in article I, Section 8, Clauses 1 and 3, which we discussed in section 3.8.7 and will repeat here:

*Article I, Section 8, Clause 1: “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 throughout the United States; “*

[...]

*Article I, Section 8, Clause 3: “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;”*

The meaning of “among”, as defined by the U.S. Supreme Court, dictates that Congress can tax only “interstate” or “foreign” commerce, but NOT “intrastate” commerce. Hence, the only thing that can legitimately be taxed within the geographical boundaries of the 50 Union states, per the U.S. Constitution, is *foreign income*, as this code section shows. Note that income from the 50 Union states (which is *not* foreign) going to STATUTORY “U.S. citizens” (8 U.S.C. §1401, who are not nonresident aliens or citizens living overseas, which would then define the income as foreign) is never listed as a taxable “source”, and therefore this income is *not* subject to tax. This also helps explain why citizens have to fill out a W-4 to have taxes deducted from their income.. because they have to *volunteer* since taxes can’t legally be imposed on them against their will.

Many people, when or if they look at this *very important* section of the Internal Revenue Code, just skim by it or don’t read it at all, because it falls 800 sections *after* the discussion of taxable types of “income” appearing in I.R.C. Section 61. *Upon first glance, they look at this section and think it doesn’t apply to them, which is exactly what the I.R.S. wants them to do!* One would think that sections 61 and 861 are so closely related that they deserve to be together, but the clever lawyers in the I.R.S. didn’t want citizens paying attention to this section, so they have obfuscated the tax code over the years deliberately by separating these two sections so as not to draw attention to this section, because they know that it represents the biggest tax loophole ever!

Another method the IRS and the Congress have exploited used over the years to obfuscate the tax code is to confuse or deceive us about the meaning and significance of the term “source”. In I.R.C. Section 861, they use the term “from whatever source derived”, which is the very language used in the 16<sup>th</sup> Amendment:

*“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration. “*

Some naïve readers perceive the term “*whatever source derived*” to mean that the source doesn’t matter at all! This, by the way, is precisely what the IRS and Congress wants you to believe! It takes a person with more legal background and education than the common man has from our deficient public education system to understand that this is simply not the case. *In point of fact, there is no way to define a tax without associating it to a geographical boundary, because otherwise, it would be unenforceable in court.* Not defining the geographical boundaries also would completely remove any constitutional constraints on the power of the federal government and completely invalidate the constitution! This was made clear in the case of *Bailey v. Drexel Furniture Co.* (259 U.S. 20). See section 5.6.11.4 for more details on this. If the federal government could tax any kind of income it wanted, within and between any of the states, it could completely usurp the taxing authority of the states. That is why we will say once again, that a tax is *not* valid unless it identifies the object of the tax, which in this

case is “income”, and the geographical boundaries and limitation that apply to it, which is the “source”. If Congress and the IRS had any decency, they would write the U.S. Codes to make this point very clear, but of course if they did this, then people would immediately quit paying income taxes, so they deliberately look the other way to create an opportunity to tax your ignorance of the law. That is why we say that federal income taxes are “stupidity taxes”.

For more background on the subject of taxable sources, refer to 26 C.F.R. §1.861-1.863, which we talk about later in sections 3.12.6-3.12.10. These sections are the implementing regulations of the commissioner of the IRS’. They define the IRS’ own interpretation of the meaning of the U.S. Codes on the “source” issue. 26 C.F.R. §§1.861-1.863 deal with income from “specific sources”, which simply reinforces the idea presented above that “from whatever source derived” doesn’t mean that “source” is irrelevant.

With this background behind us, we will now reveal the content of this code section so you can read it for yourself.

-EXPCITE-

TITLE 26 - INTERNAL REVENUE CODE

Subtitle A - Income Taxes

CHAPTER 1 - NORMAL TAXES AND SURTAXES

Subchapter N - Tax Based on Income From Sources Within or Without the United States

PART I - SOURCE RULES AND OTHER GENERAL RULES RELATING TO

**FOREIGN INCOME**

-HEAD-

**Section 861(a) Gross income from sources within United States**

The following items of gross income shall be treated as income from sources within the United States:

(1) Interest

Interest from the United States or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of noncorporate residents or domestic corporations not including –

(A) interest from a resident alien individual or domestic corporation, if such individual or corporation meets the 80-percent foreign business requirements of subsection (c)(1), and

(B) interest –

(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

(ii) on amounts satisfying the requirements of subparagraph (B) of section 871(i)(3) which are paid by a foreign branch of a domestic corporation or a domestic partnership.

(2) Dividends

The amount received as dividends –

(A) from a domestic corporation other than a corporation which has an election in effect under section 936, or

(B) from a foreign corporation unless less than 25 percent of the gross income from all sources of such foreign corporation for the 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was effectively connected (or treated as effectively connected other than income described in section 884(d)(2)) with the conduct of a trade or business within the United States; but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period which was effectively connected (or treated as effectively connected other than income described in section 884(d)(2)) with the conduct of a trade or business within the United States bears to its gross income from all sources; but dividends (other than dividends for which a deduction is allowable under section 245(b)) from a foreign corporation shall, for purposes of subpart A of part III (relating to foreign tax credit), be treated as income from sources without the United States to the extent (and only to the extent) exceeding the amount which is 100/70th of the amount of the deduction allowable under section 245 in respect of such dividends, or

(C) from a foreign corporation to the extent that such amount is required by section 243(e) (relating to certain dividends from foreign corporations) to be treated as dividends from a domestic corporation which is subject to taxation under this chapter, and to such extent subparagraph (B) shall not apply to such amount, or

(D) from a DISC or former DISC (as defined in section 992(a)) except to the extent attributable (as determined under regulations prescribed by the Secretary) to qualified export receipts described in section 993(a)(1) (other than interest and gains described in section 995(b)(1)). In the case of any dividend from a 20-percent owned corporation (as defined in section 243(c)(2)), subparagraph (B) shall be applied by substituting “100/80th” for “100/70th”.

(3) Personal services

Compensation for labor or personal services performed in the United States; except that compensation for labor or services performed in the United States shall not be deemed to be income from sources within the United States if –

- (A) the labor or services are performed by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year,
- (B) such compensation does not exceed \$3,000 in the aggregate, and
- (C) the compensation is for labor or services performed as an employee of or under a contract with –
- (i) a nonresident alien, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, or
  - (ii) an individual who is a citizen or resident of the United States, a domestic partnership, or a domestic corporation, if such labor or services are performed for an office or place of business maintained in a foreign country or in a possession of the United States by such individual, partnership, or corporation. In addition, except for purposes of sections 79 and 105 and subchapter D, compensation for labor or services performed in the United States shall not be deemed to be income from sources within the United States if the labor or services are performed by a nonresident alien individual in connection with the individual's temporary presence in the United States as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States.
- (4) *Rentals and royalties*  
Rentals or royalties from property located in the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using in the United States patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like property.
- (5) *Disposition of United States real property interest* Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c)).
- (6) *Sale or exchange of inventory property*  
Gains, profits, and income derived from the purchase of inventory property (within the meaning of section 865(i)(1)) without the United States (other than within a possession of the United States) and its sale or exchange within the United States.
- (7) *Amounts received as underwriting income* (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract –
- (A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or
  - (B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States.
- (8) *Social security benefits*  
Any social security benefit (as defined in section 86(d)).
- (b) *Taxable income from sources within United States*  
From the items of gross income specified in subsection (a) as being income from sources within the United States there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as taxable income from sources within the United States. In the case of an individual who does not itemize deductions, an amount equal to the standard deduction shall be considered a deduction which cannot definitely be allocated to some item or class of gross income.
- (c) *Foreign business requirements*
- (1) *Foreign business requirements*
    - (A) *In general*  
An individual or corporation meets the 80-percent foreign business requirements of this paragraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such individual or corporation for the testing period is active foreign business income.
    - (B) *Active foreign business income*  
For purposes of subparagraph (A), the term "active foreign business income" means gross income which –
      - (i) is derived from sources outside the United States (as determined under this subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation, and
      - (ii) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States by the individual or corporation (or by a subsidiary.) For purposes of this subparagraph, the term "subsidiary" means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting "50 percent" for "80 percent" each place it appears).
  - (C) *Testing period*  
For purposes of this subsection, the term "testing period" means the 3-year period ending with the close of the taxable year of the individual or corporation preceding the payment (or such part of such period as may be applicable). If the individual or corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.
  - (2) *Look-thru where related person receives interest*
    - (A) *In general*

- In the case of interest received by a related person from a resident alien individual or domestic corporation meeting the 80-percent foreign business requirements of paragraph (1), subsection (a)(1)(A) shall apply only to a percentage of such interest equal to the percentage which –
- (i) the gross income of such individual or corporation for the testing period from sources outside the United States (as determined under this subchapter), is of
  - (ii) the total gross income of such individual or corporation for the testing period.
- (B) *Related person*  
For purposes of this paragraph, the term "related person" has the meaning given such term by section 954(d)(3), except that –
- (i) such section shall be applied by substituting "the individual or corporation making the payment" for "controlled foreign corporation" each place it appears, and (ii) such section shall be applied by substituting "10 percent or more" for "more than 50 percent" each place it appears.
- (d) *Special rule for application of subsection (a)(2)(B)*  
For purposes of subsection (a)(2)(B), if the foreign corporation has no gross income from any source for the 3-year period (or part thereof) specified, the requirements of such subsection shall be applied with respect to the taxable year of such corporation in which the payment of the dividend is made.
- (e) *Income from certain railroad rolling stock treated as income from sources within the United States*
- (1) *General rule*  
For purposes of subsection (a) and section 862(a), if –
    - (A) a taxpayer leases railroad rolling stock which is section 1245 property (as defined in section 1245(a)(3)) to a domestic common carrier by railroad or a corporation which is controlled, directly or indirectly, by one or more such common carriers, and
    - (B) the use under such lease is expected to be use within the United States, all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.
  - (2) *Paragraph (1) not to apply where lessor is a member of controlled group which includes a railroad*  
Paragraph (1) shall not apply to a lease between two members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company all of whose stock is owned by one or more domestic common carriers by railroad.
  - (3) *Denial of foreign tax credit*  
No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1).
- (f) *Cross reference*  
For treatment of interest paid by the branch of a foreign corporation, see section 884(f).

### 3.9.6 26 U.S.C. §871: Tax on nonresident alien individuals

This section is too long to list in its entirety, but you can read it yourself at the address below:

<https://www.law.cornell.edu/uscode/text/26/871>

§871(a) imposes a tax of 30% on nonresident aliens for amounts received only from **sources within** the United States\*\*/federal zone. §871(b) imposes a "graduated" tax only on income which is **effectively connected with trade or business** [as privileged federal government employees who are elected or appointed to political office] within the U.S.\*\*/federal zone.

You will note the definition of "trade or business" in the IRC:

26 U.S.C. §7701(26)

(26) **TRADE OR BUSINESS**—The term "trade or business" includes [only] the performance of functions of public [government] office.

26 U.S.C. §864 **DEFINITIONS AND SPECIAL RULES...**(c) **EFFECTIVELY CONNECTED INCOME.**

(4) **INCOME FROM SOURCES WITHOUT\*** the United States.

(A) "Except as provided in subparagraphs (B) or (C)\*...no income, gain or loss from sources without the United States [in the 50 Union states] shall be treated as effectively connected with the conduct of a trade or business within the United States."

Subparagraph B and C defines the income liabilities of nonresident aliens and foreign corporations who have offices WITHIN the United States\*\*/Federal zone s[for example in the District of Columbia]. Certain income received from "without" the United States\*\* is taxable if received "within" the United States.

26 C.F.R. § 1.871-7(4) "...a nonresident alien individual **not engaged in trade or business in the [federal zone] United States** during the taxable year **has no income gain or loss.. which is effectively connected with the conduct of a trade or business in the United States.**"

Taxable income on nonresident aliens is determined as follows:

26 U.S.C. §871(b)(2) Determination of **Taxable Income**

In determining **taxable income**...gross income includes only gross income **which is effectively connected with the conduct of a trade or business within the United States.**

### 3.9.7 26 U.S.C. §872: Gross income

<https://www.law.cornell.edu/uscode/text/26/872>

The only definition of gross income for the nonresident alien is found in 26 U.S.C. §872:

26 U.S.C. §872 *Gross income*

(a) *General rule*

*In the case of a nonresident alien individual, except where the context clearly indicates otherwise, gross income includes only -*

(1) *gross income which is derived from sources **within** the United States [\*\* the federal zone] and which is not effectively connected with the conduct of a trade or business within the United States [\*\* federal zone], and*

(2) *gross income which is effectively connected with the conduct of a trade or business within the United States [\*\* federal zone].*

Note that a nonresident alien who has **no** income from sources within the federal zone/U.S.\*\* has no tax liability under IRC section A, §871(a)!

### 3.9.8 26 U.S.C. §3405: Employer withholding

Discusses employer withholding and exempt W-4's. See the following to look up this section of code:

<http://www.law.cornell.edu/uscode/>

### 3.9.9 26 U.S.C. §6702: Frivolous Income Tax Return

Below is the text of this statute:

26 U.S.C. §6702 *Frivolous Income Tax Return*

(a) *Civil penalty*

*If -*

(1) *any individual files what purports to be a return of the tax imposed by subtitle A but which -*

(A) *does not contain information on which the substantial correctness of the self-assessment may be judged, or*

(B) *contains information that on its face indicates that the self-assessment is substantially incorrect; and*

- (2) the conduct referred to in paragraph (1) is due to -
- (A) a position which is frivolous, or
- (B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws, then such individual shall pay a penalty of \$500.
- (b) Penalty in addition to other penalties
- The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.

Based on the above statute, some courts have imposed sanctions against citizens who file such returns. Below is an excerpt from the case of *Lovell v. United States*, 755 F.2d. 517:

*This court recently warned taxpayers who put forth frivolous arguments in bad faith that we would not hesitate to impose sanctions pursuant to Fed. R. App. P. 38. Granzow v. Commissioner, 739 F.2d. 265, 269-70 (7th Cir. 1984). See also Edgar v. Inland Steel Co., 744 F.2d. 1276, 1278 (7th Cir. 1984); United States v. Ekblad, 732 F.2d. 562 (7th Cir. 1984). Other circuits have imposed sanctions in § 6702 cases, see Martinez v. IRS, 744 F.2d. 71 (10th Cir. 1984) (per curiam); Davis, 742 F.2d. at 173; Baskin v. United States, 738 F.2d. 975, 977 (8th Cir. 1984) (per curiam); Crain v. Commissioner, 737 F.2d. 1417, 1418 (5th Cir. 1984), and we believe sanctions are appropriate in this case. Accordingly, the United States shall recover, from plaintiffs, reasonable attorneys' fees and costs incurred in defending this appeal. The government shall file with this court, within 15 days of the date of this order, a submission as to the fees and costs it has incurred on appeal. The judgment of the district court is AFFIRMED.*

### 3.9.10 26 U.S.C. §7201: Attempt to evade or defeat tax

*26 U.S.C. §7201 Attempt to Evade or Defeat Tax*

*Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.*

When a case of tax evasion is prosecuted by the IRS, the elements required to be proved are:

- 1) willfulness.
- 2) existence of a tax deficiency.
- 3) an affirmative act constituting an evasion or attempted evasion of the tax.

See the following cases for more information: *Sansone v. United States*, 380 U.S. 343, 351, 13 L.Ed.2d. 882, 85 S.Ct. 1004 (1965); *United States v. Samara*, 643, F.2d. 701, 703 (10th Cir.), cert. denied, 454 U.S. 829, 102 S.Ct. 122, 70 L.Ed.2d. 104 (1981).

Interestingly, this section of code dealing with tax evasion directly contradicts the Supreme Court case of [Gregory v. Helvering, 293 U.S. 465 \(1935\)](#), which said in plain words:

*"The legal right of the taxpayer to decrease the amount of what otherwise would be his taxes or altogether avoid them by means which the law permits, cannot be doubted."*

Do you think this code section is really just a catch-all to scare people? Sure looks that way to us, especially when you consider the 861/source. Could this be the reason why citizens who aren't liable for tax continue to "volunteer" to pay it anyway--FEAR?

### 3.9.11 26 U.S.C. §7203: Willful failure to file return, supply information, or pay tax

*26 U.S.C. §7203 Willful Failure to file return, supply information, or pay tax*

*Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make [not file, but make] such return, keep such records, or supply such information [to whom?.. to oneself?], at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated*

1 tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under  
 2 section 6654 or 6655 with respect to such failure. In the case of a willful violation of any provision of section  
 3 6050I, the first sentence of this section shall be applied by substituting "felony" for "misdemeanor" and "5 years"  
 4 for "1 year".

5 Interestingly, the statute doesn't define the meaning of "making a return". Why didn't they say "submit" a return and tell us  
 6 to where? Because under the Fifth Amendment to the Constitution, parties have a right not to incriminate themselves, which  
 7 means they have the right not to submit a return! The 1040 instruction booklet contains a Privacy Act statement which  
 8 confirms this. Don't let the title above fool you! It says "file" but the title is editorially supplied and does not have the "force  
 9 of law". Only the content of the section is law, and it DOES NOT impose a requirement to file, but only to make the return,  
 10 because if it did, it would violate the Fifth Amendment for natural persons. Here is the basis for that belief:

11 [26 U.S.C. §7806](#) Construction of title

12 (b) Arrangement and classification

13 No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the  
 14 location or grouping of any particular section or provision or portion of this title, **nor shall any table of contents,  
 15 table of cross references, or similar outline, analysis, or descriptive matter relating to the contents of this title  
 16 be given any legal effect.** The preceding sentence also applies to the sidenotes and ancillary tables contained in  
 17 the various prints of this Act before its enactment into law.

18 Now let's look at the definition of "make"

19 **make:** 1. **b:** to seem to begin (an action) 2 **a:** to cause to happen to or be experienced by someone **b:** to cause to  
 20 exist, occur, or appear **c:** to favor the growth or occurrence of **5:** to put together from components: CONSTITUTE  
 21 **6 a:** to compute or estimate to be **b:** to form and hold in the mind.<sup>58</sup>

22 So according to common usage, and because there is not definition of the term "make", we have to use the above definition.  
 23 The tax form is called a "return" but nowhere does it say that it must be "returned" to anyone, nor could returning such a  
 24 form ever be made mandatory because of the privilege by natural persons under the Fifth Amendment to not be compelled to  
 25 incriminate themselves. As long as you "make" (create) a return, which process is never defined, you can always claim that  
 26 you made it and that you filed it, but that you just didn't file it with the Internal Revenue Service because they never  
 27 specifically required you to do so ANYWHERE, nor could the IRS require you to do so under the Fifth Amendment, or  
 28 punish you for failure to do so! Because "taxpayer" includes fictions like corporations who can be made liable for income  
 29 taxes, the statement below is accurate, but is misleading for natural persons, to whom the section does not apply. The passage  
 30 below confirms this. If they wanted to REQUIRE natural persons to file the return, they would have put it in part (a) below:

31 [26 C.F.R. 1.6011-1](#) General requirements of return, statement, or list

32 (a) General rule. Every person subject to any tax, or required to collect any tax, under Subtitle A of the Code,  
 33 shall make [but not necessarily file] such returns or statements as are required by the regulations in this chapter.  
 34 The return or statement shall include therein the information required by the applicable regulations or forms."

35 b) Use of prescribed forms. Copies of the prescribed return forms will so far as possible be furnished taxpayers  
 36 by district directors. A taxpayer will not be excused from making a return, however, by the fact that no return  
 37 form has been furnished to him. Taxpayers not supplied with the proper forms should [not must] make application  
 38 therefore to the district director in ample time to have their returns prepared, verified, and filed on or before the  
 39 due date with the internal revenue office where such returns are required to be filed [by whom?.. the REVENUE  
 40 AGENTS who receive them? or "persons"? ONLY by corporations or elected or appointed officers of the U.S.  
 41 government liable for the tax, but not other "natural persons" in the 50 Union states not occupying federal  
 42 territories]. Each taxpayer should carefully prepare his return and set forth fully and clearly the information  
 43 required to be included therein. Returns which have not been so prepared will not be accepted as meeting the  
 44 requirements of the Code. In the absence of a prescribed form, a statement made by a taxpayer disclosing his  
 45 gross income and the deductions therefrom may be accepted as a tentative return, and, if filed within the  
 46 prescribed time, the statement so made will relieve the taxpayer from liability for the addition to tax imposed for  
 47 the delinquent filing of the return, provided that without unnecessary delay such a tentative return is supplemented  
 48 by a return made on the proper form.

49 [comments added for clarification]

<sup>58</sup> Webster's Ninth New Collegiate Dictionary, ISBN 0-87779-510-X, 1983, pp. 718-719.

1 Do you see any definition above of WHO can be required to file a return? All they are saying above is that the revenue agents  
 2 are required to file the returns upon receipt, but no liability on the part of persons is established from the above. There can  
 3 be no liability to file because the IRS doesn't want you to know that as a natural person who isn't an elected or appointed  
 4 political officer of the United States or an officer of a U.S.\*\* corporation and who lives in nonfederal areas of the 50 Union  
 5 states, you aren't liable for filing returns or paying tax. This tactic of making but not filing a return was very successfully  
 6 used by Gaylon Harrell, who was acquitted of state charges of Willful Failure to File under 26 U.S.C. §7203, and who we  
 7 talk about later in section 9.2.2 and who appears in our movie. There are also NO implementing regulations for I.R.C. §7203,  
 8 which means that you cannot be criminally punished or civilly fined for violating it according to the following cites:

9 *"...we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations  
 10 promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on  
 11 anyone."*

12 [*California Bankers Assn. v. Shultz, 416 U.S. 21 (1974)*]

13 *"An individual cannot be prosecuted for violating the act unless he violates the implementing regulations."*

14 [*United States v. Reinis, 794 F. 2d 506 (9th Cir. 1986), United States v. Murphy, 809 F.2d. 1427 (9th Cir. 1987)*]

15 *"Criminal penalties...can attach only upon violation of regulations promulgated by the Secretary."*

16 [*U.S. v. Reinis, 794 F.2d. 506*]

17 *"Individual cannot be prosecuted for violating Currency Reporting Act unless he violates the implementing  
 18 regulations."*

19 [*31 U.S.C.A. §5311 et. seq.*]

20 We know that there are no "Willful Failure to File" implementing regulations so there can't be a crime of "Willful Failure to  
 21 File" resulting from Subtitle A income taxes. So how does the government legally charge people with "Willful Failure to  
 22 File"? Here is how one of our readers describes it:

23 *You may know that a "willful failure to file" case is NEVER about a 1040 Form. As bizarre as it may seem,  
 24 fraudulent narcotics smuggling charges, along with the Title 26 charges, are added to the Form 9131, which is  
 25 used to convene a grand jury for indictment.*

26 *However, nothing about smuggling is ever told to the jury. Most people savvy enough to obtain the Form 9131  
 27 used in their case, have received it with the charges BLACKED OUT. a few unredacted copies were leaked,  
 28 however. That's how we know about this particular fraud on the court. This Form is signed, by the way, by 5  
 29 different agents at the IRS, including CID Special agents and the district director.*

30 *Without seeing an unredacted Form 9131, defendants make a "leap of presumptions" that the charges must relate  
 31 to the 1040 Form we didn't file. Wrong. But people can't wait to argue the wrong issues. The question is not  
 32 "am I liable" or anything else, really.*

33 *The ONLY issue is, "what evidence does the government have that I smuggled drugs, and how does that act give  
 34 rise to a tax, anyway?" Should you care, there is a flip side of this. Real drug smugglers are also charged with  
 35 Title 21, and ALSO a Title 26 violation- but THAT charge (Title 26) is never brought before the grand jury. This  
 36 government is so sneaky.*

37 *If you are in contact with Wayne Bentson (not Bill BENSON- different guy), and/or Richard Standring, they can  
 38 explain this to you. So can Dan Meador. I can send you their contact numbers, if you want to know about their  
 39 excellent research.*

### 40 **3.9.12 26 U.S.C. §7206: Fraud and false statements**

41 This section establishes that one should never lie or commit fraud on their tax return or aid in committing fraud against the  
 42 United States:

43 *Sec. 7206. Fraud and false statements*

44 *Any person who -*

45 *(1) Declaration under penalties of perjury Willfully makes and subscribes any return, statement, or other  
 46 document, which contains or is verified by a written declaration that it is made under the penalties of perjury,  
 47 and which he does not believe to be true and correct as to every material matter; or*

*(2) Aid or assistance*

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

*(3) Fraudulent bonds, permits, and entries*

*Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or*

*(4) Removal or concealment with intent to defraud*

*Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or*

*(5) Compromises and closing agreements*

*In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully -*

*(A) Concealment of property*

*Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or*

*(B) Withholding, falsifying, and destroying records*

*Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.*

The implications of this section are far-reaching. Below is a list of some of the things that might be punishable under this statute:

1. Employers encouraging their employees to misrepresent their tax status on their W-4. For instance, they could be prosecuted for coercing or intimidating an employee who wants to claim exempt status on his W-4 into claiming one exemption instead.
2. Citizens with domestic (not foreign) income filing tax returns who transcribe "wages, tips, and other compensation" from block 10 of their W-2 onto the income portion of their tax return are committing fraud that could be prosecuted because their income is not indeed taxable.
3. Citizens who have income that is taxable who do not declare it on their tax returns are committing fraud against the United States.

### **3.10 U.S. Code Title 18: Crimes and Criminal Procedure**

#### **3.10.1 18 U.S.C. 6002-6003**

*18 U.S.C. Sec. 6002. Immunity generally*

*Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to -*

*(1) a court or grand jury of the United States,*

1 (2) an agency of the United States, or

2 (3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either  
3 House, and the person presiding over the proceeding communicates to the witness an order issued under this  
4 title, the witness may not refuse to comply with the order on the basis of his privilege against self-  
5 incrimination; but no testimony or other information compelled under the order (or any information directly  
6 or indirectly derived from such testimony or other information) may be used against the witness in any  
7 criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with  
8 the order.

9 Sec. 6003. Court and grand jury proceedings

10 (a) In the case of any individual who has been or may be called to testify or provide other information at any  
11 proceeding before or ancillary to a court of the United States or a grand jury of the United States, the United  
12 States district court for the judicial district in which the proceeding is or may be held shall issue, in  
13 accordance with subsection (b) of this section, upon the request of the United States attorney for such district,  
14 an order requiring such individual to give testimony or provide other information which he refuses to give or  
15 provide on the basis of his privilege against self-incrimination, such order to become effective as provided in  
16 section 6002 of this title.

17 (b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, the  
18 Associate Attorney General, or any designated Assistant Attorney General or Deputy Assistant Attorney  
19 General, request an order under subsection (a) of this section when in his judgment -

20 (1) the testimony or other information from such individual may be necessary to the public interest; and

21 (2) such individual has refused or is likely to refuse to testify or provide other information on the basis of  
22 his privilege against self-incrimination.

23 This statute is frequently used by “natural persons” or people other than corporations, partnerships, and trusts, to gain  
24 immunity from prosecution for any information they provide to the court or congress that might be incriminating against  
25 themselves. It also applies to tax records! If the IRS asks you to produce business records and you are a “natural person”,  
26 you can ask them for immunity from criminal prosecution related to all information that you might provide to them or  
27 anything that might derive from that information.

### 28 **3.11 U.S. Code Title 5, Sections 551 through 559: Administrative Procedures Act**

29 This section of the U.S. Codes is called the Administrative Procedures Act and it governs all the administrative dealings you  
30 might have with the IRS. It talks about the forms, procedures, and rules they must use to determine your tax liability and  
31 collect taxes, and the burden of proof they must use to reach conclusions about your status. This section is VERY  
32 IMPORTANT because it establishes the authority they have to conduct tax examinations with you. It’s too long to repeat  
33 here, but we encourage you to read it for yourself on the web:

34 <https://www.law.cornell.edu/uscode/text/5/part-I/chapter-5/subchapter-II>

### 35 **3.12 Code of Federal Regulations (C.F.R.) Title 26**

36 “for federal tax purposes, federal regulations govern.”  
37 [*Dodd v. United States*, 223 F.Supp. 785; *Lyeth v. Hoey*, 305 U.S. 186,, 59 S.Ct. 155]

38 The *Code of Federal Regulations (C.F.R.)* is a codification of the general and permanent rules published in the *Federal*  
39 *Register* by the Executive departments and agencies of the Federal Government. The C.F.R. online is a joint project  
40 authorized by the publisher, the National Archives and Records Administration's Office of the Federal Register, and the  
41 Government Printing Office (GPO) to provide the public with enhanced access to Government information. GPO will  
42 continue to make the paper editions of the C.F.R. and *Federal Register* available through its Superintendent of Documents  
43 Sales service.

44 The C.F.R. is divided into 50 titles which represent broad areas subject to Federal regulation. The titles correspond to the 50  
45 titles of the U.S. Codes, since the titles are intended to administratively implement the 50 titles of the U.S. Code. If you want  
46 to look up regulations for taxes, for instance, which are covered in Title 26 of the U.S. Codes, then you would refer to Title  
47 26 of the Code of Federal Regulations. Each title is divided into chapters which usually bear the name of the issuing agency.

(See: *Alphabetical List of Agencies Appearing in the C.F.R.* )-- extracted from the January 1, 1998, revision of the C.F.R. *Index and Finding Aids* -- pp. 1001-1009.) Each chapter is further subdivided into parts covering specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the C.F.R. will be provided at the section level.

Regulations under Title 26 of the United States Code are written primarily by the Secretary of the Treasury under the authority of [26 U.S.C. §7805](#)(a). This section says the following:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 80](#) > [Subchapter A](#) > Sec. 7805.  
[Sec. 7805. - Rules and regulations](#)

(a) Authorization

*Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.*

The most important thing to understand is the requirement for regulations in the enforcement of income taxes under Subtitle A. [44 U.S.C. §1505](#)(a) requires that every law written by Congress that will have “general applicability and legal effect” must have an implementing regulation published in the Federal Register. Below is a definition of “general applicability and legal effect” from [1 C.F.R. §1.1](#):

*“Document having general applicability and legal effect means any document issued under proper authority prescribing a penalty or course of conduct, conferring a right, privilege, authority, or immunity, or imposing an obligation, and relevant or applicable to the general public, members of a class, or persons in a locality, as distinguished from named individuals or organizations;”*

Regulations relating only to officers, employees or agents of the government need **not** be published in the Federal Register, according to [44 U.S.C. §1505\(a\)](#).

[TITLE 44](#) > [CHAPTER 15](#) > Sec. 1505.  
[Sec. 1505. - Documents to be published in Federal Register](#)

(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress.

**There shall be published in the Federal Register -**

(1) Presidential proclamations and Executive orders, **except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;**

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

*For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.*

Note that only a handful of groups are *specifically exempted* from the requirement for publication in the Federal Register of all enforcement provisions within all laws, which are:

1. “A military and foreign affairs function of the United States”. 5 U.S.C. §553(a)(1).
2. “A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.” 5 U.S.C. §553(a)(2).
3. “Federal agencies or persons in their capacity as officers, agents, or employees thereof”. 44 U.S.C. §1505(a)(1).

There is a very good reason why implementing regulations that only affect federal employees, contracts, and benefits need not be published in the Federal Register to be enforceable in court. The reason relates to the nature of the Separation of

1 Powers within our Republican government. The Legislature writes all laws, and most of these laws direct the activities of  
 2 the Executive Branch. Laws passed by Congress in the Legislative Branch essentially amount to a direct and immediate  
 3 command to its “employees” in the Executive Branch to do certain things. If these commands had to be interpreted by the  
 4 Executive Branch itself and published as Implementing Regulations in the Federal Register before they would be enforceable  
 5 against federal workers, then the servant, which is the Executive Branch, could simply go on strike by refusing to write  
 6 implementing regulations. This would allow the servant, which is the Executive Branch, to routinely disobey its Master, the  
 7 Legislative Branch, with impunity, resulting in chaos and a dysfunctional government.

8 Typically, agents will cite you a statute for liability or penalties but cannot give you the implementing regulation, because  
 9 there aren’t any, and this definitely does not satisfy the burden of proof on the agent! The reason there aren’t any implementing  
 10 regulations is because as we say throughout this book, Subtitle A income taxes ONLY apply to elected or appointed officers  
 11 of the United States government, and [44 U.S.C. §1505\(a\)](#) says that implementing regulations aren’t required for these people.

12 In fact, the only people who can be prosecuted for “failure to file” under [26 U.S.C. §7201](#) are officers and employees of the  
 13 United States when acting in their *official capacity* as an agent of the government. The federal courts have indirectly  
 14 confirmed this fact. For instance, here is what one of them said about the fact that there are no implementing regulations for  
 15 federal tax crimes:

16 *“Federal income tax regulations governing filing of income tax returns do not require Office of Management and*  
 17 *Budget control numbers because **requirement to file tax return is mandated by statute, not by regulation.**”*  
 18 *[U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290, affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659, 507*  
 19 *U.S. 1010, 123 L.Ed.2d. 278]*

20 What the above court just admitted is that only federal employees, officers, contractors, and benefits recipients, for whom  
 21 implementing regulations are not required, can be the proper subject of Subtitle A of the Internal Revenue Code. You see  
 22 how sneaky this is?

23 All enforcement actions under Subtitle A of the Internal Revenue Code *must* be authorized by an implementing regulation  
 24 written by the Secretary and published in the Federal Register. Enforcement actions include: 1. Requirement to keep records;  
 25 2. Authority to make an assessment of liability; 3. Authority to institute collection actions; 4. Authority to assess penalties.  
 26 If the IRS attempts an enforcement action that is not specifically authorized by an implementing regulation, then they are  
 27 acting illegally, and if that unlawful act results in an injury to a private citizen, the IRS agent who did the act can be held  
 28 personally liable for his tort, is not protected for his wrongdoing by any law, and may not assert sovereign or official immunity  
 29 as a defense. The act by the Secretary of writing an implementing regulation accomplishes the following:

- 30 1. Makes a *specific* agency in the Executive Branch of the government responsible for enforcing and/or executing a
- 31 *specific* statute.
- 32 2. Makes a specific person or role within an agency responsible for a specific function in the execution of the statute.
- 33 3. Provides detailed instructions that implement the intent of the statute and which ensure that the statute is carried out
- 34 in a manner that is consistent with the law and prevailing agency directives and rulings.
- 35 4. Gives all persons in the general public who could be adversely affected by the proposed regulation due notice and
- 36 opportunity to intervene or influence its passage.

37 The effect of failure to publish implementing regulations authorizing specific enforcement actions is identified in 26 C.F.R.  
 38 §601.702(a)(2)(ii), and it indicates that the rights of no member of the public at large may be adversely affected by the actions  
 39 of an agency:

40 [26 C.F.R. §601.702](#) *Publication and public inspection*

41 *(a)(2)(ii) Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms*  
 42 *of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal*  
 43 *Register, such person is not required in any manner to resort to, or be adversely affected by, such matter if it*  
 44 *is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph.*  
 45 *Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated*  
 46 *by reference will not adversely change or affect a person’s rights.*

47 To identify whether a specific regulation has been published in the federal register, a citation is required at the bottom of the  
 48 regulation in accordance with 1 C.F.R. §21.43. Such a citation might look like the following, which is from 26 C.F.R.  
 49 §601.702. We have bold-faced the Federal Register citation:

1 [32 FR 15990, Nov. 22, 1967]

2 The bold-faced text above means volume 32 of the Federal Register, page 15990.

3 All regulations written by the Secretary of the Treasury may not exceed the scope or authority of the statute, because the  
4 Secretary is not authorized to write law or legislate:

5 *“When enacting §7206(1) Congress undoubtedly knew that the Secretary of the Treasury is empowered to*  
6 *prescribe all needful rules and regulations for the enforcement of the internal revenue laws, so long as they carry*  
7 *into effect the will of Congress as expressed by the statutes. Such regulations have the force of law. **The***  
8 ***Secretary, however, does not have the power to make law,** Dixon v. United States, supra.”*  
9 *[United States v. Levy, 533 F.2d. 969 (1976)]*

10 The Secretary is only authorized under [26 U.S.C. §7805\(a\)](#) to interpret and apply the law as written by Congress in the statutes  
11 because that is the limit of his delegated authority. The Federal Register Act, 44 U.S.C. Chapter 15, requires that all  
12 regulations that will affect the public at large must be published in the Federal Register. If the Secretary has written a  
13 regulation but not bothered to publish it in the Federal register, then it may not be applied against the public at large. Every  
14 statute or regulation that has been published in the Federal Register will have an authority citation at the end stating so, as  
15 required by 1 C.F.R. §21.40 of a form like the following:

16 [50 FR 12469, Mar. 28, 1985, as amended at 54 FR 9682, Mar. 7, 1989]

17 The citation above refers to volume 50 of the Federal Register, page 12469. Most of the definitions for income taxes come  
18 from 26 U.S.C Sections 3401 and 7701, to be precise, but guess what, you won't find pointers in the C.F.R.'s or IRS  
19 publications back to these original and "foundational" definitions in the U.S. Code. The terms "employer" and "employee"  
20 have a much more restrictive meaning in 26 U.S.C. Secs. 3401 and 7701 than they do in the C.F.R.'s or the IRS publications.  
21 Some definitions, like that for "withholding agent" only appear in the 26 U.S. Code and not in the 26 C.F.R. We assume this  
22 is the case in order to make the C.F.R.'s more confusing for IRS personnel as a way to encourage them to misinterpret the  
23 tax code in a manner that advantages the government financially. Also, if the IRS doesn't define their terms, then the concept  
24 of "willfulness" as it relates to violating Citizen's rights by wrongfully taking more taxes than is owed becomes less  
25 threatening for IRS agents. They can just "claim ignorance" when prosecuted for malfeasance, which is something we citizens  
26 could never do as it relates to paying our taxes! This devious tactic is called "plausible deniability".

27 The Code of Federal Regulations is derived from the Federal Register and began its existence in 1938. The Federal Register  
28 began existence in the year 1935 with the passage of the Federal Register Act, now codified at 44 U.S.C. Chapter 15. There  
29 were no C.F.R.'s before that: only intra-agency procedures that were not made public in many cases. All regulations which  
30 will affect the general public must be published in the Federal Register at least 30 days before they become effective. Those  
31 regulations which do not affect the general public need not be published in the Federal Register. An example of such a  
32 regulation might be regulations that only impact federal employees. These need not be published in the Federal Register to  
33 be legitimate. This is important because most of Subtitle A of the Internal Revenue Code in the context of natural persons  
34 only applies to elected or appointed officers of the United States government and there are no enforcement regulations for  
35 these statutes in the C.F.R.'s.

36 To examine the contents of the entire C.F.R., go to the following website:

<http://law.cornell.edu/cfr/index.php>

### 37 3.12.1 How to Read the Income Tax Regulations

38 Title 26 contains 799 Parts, or particular subject matters of taxes. Obviously every Section in the Internal Revenue Code  
39 and every Regulation cannot be applicable to every particular type of tax. Therefore, the Code of Federal Regulations  
40 (C.F.R.) is essential for defining, specifically, which Sections of the Code are applicable to which particular type of taxes. 1  
41 C.F.R. §1.21.9(a) states:

42 *PARTS: “The normal division of a chapter are PARTS consisting of. regulations applying to a ...specific subject*  
43 *matter under the control of the agency.”*

The subject matter or **Part** applicable to the “Individual Income Taxes” is Part 1. Following are examples of a few different types of taxes in the Internal Revenue Code and its implementing Regulations. All Regulations having general applicability to Income taxes must begin with (1.) followed by the corresponding IRC Section number.

**Table 3-7: List of C.F.R. Titles, Chapters, Subchapters, and Parts; Title 26-Internal Revenue**

<i>Part</i>	<i>Subject Matter of Tax</i>
1	Income Tax
20	Estate Tax
25	Gift Tax
31	Employment Tax-[Withholding]
44	Taxes on Wagering
48	Manufacturers and Retailers Excise Tax, etc.
301	Treasury Secretary Directives
601	Procedural regulations written by the IRS Commissioner

Title 26, the Internal Revenue Code, is divided into Sections. For example, §6001 is “Returns and Records”. Now we need to find out “specifically” what particular type of taxes this Section is applicable to, so we go to the Code of Federal Regulations, 26 C.F.R. Volume 5. Here we find the Code Sections in numerical order after a number and a period. For example, §1.6001 should be read as follows:

- (1) The (1) before the period refers to the Particular type of tax that regulation is applicable to.
- (2) The number after the period is the Section of the Code that regulation is referring to.

The following Regulations should be read as follows:

**Table 3-8: Regulation examples**

<i>Regulation number</i>	<i>Interpretation</i>
§1.6001	Record keeping and statement rendering requirements for Part 1 Income Tax
§20.6001	Record keeping and statement rendering requirements for Part 20 Estate Tax
§25.6001	Record keeping and statement rendering requirements for Part 25 Gift Taxes
§31.6001	Record keeping and statement rendering requirements for Part 31 Employment Tax
§44.6001	Record keeping and statement rendering requirements for Part 41 Wagering Tax

Note that if there is no ‘1.’ In front of the Code Section of the Regulation, that Regulation has NO applicability to any type of Individual Income Taxes! However, just because there is a Part 1 Income Tax Regulation does not necessarily mean the particular regulation is applicable to you. Remember, just as there are many particular types of taxes, there are also many types of “Income Taxes,” ie. For the U.S.\*\* (federal zone) citizen (under 8 U.S.C. §1401), the “nonresident alien” American (occupying a public office and not a private human), and the Corporate Officer under a duty to withhold. Each type of Income Tax has different tax, record keeping, and recording requirements.

### **3.12.2 Types of Federal Tax Regulations**<sup>59</sup>

#### **3.12.2.1 Treasury Regulations**

***There are three types or classes of regulations governing federal tax matters: legislative, interpretive, and procedural.*** The first two types are promulgated by the Treasury Department, and are binding on the Treasury and the IRS, while procedural regulations are issued by the IRS and are not always binding on the agency. The source of authority for a regulation determines its precedential value and the formality with which it must be adopted.

<sup>59</sup> Adapted from *Tax Procedure and Tax Fraud*, West Publishing, Patricia T. Morgan, 1999, ISBN 0-314-06586-5, pp. 11-24.

1 Section 553 of the Administrative Procedures Act (codified 5 U.S.C. §553) requires that all "substantive" or legislative  
 2 regulations be published in final form in the Federal Register at least 30 days prior to their effective date. The purpose of  
 3 this requirement is to give the public notice of the proposed rule and an opportunity to comment on it. Although neither  
 4 interpretive regulations nor procedural regulations are subject to these notice provisions, the Treasury Department follows  
 5 the section 553 requirements when it promulgates interpretive regulations. Regulations that have been proposed by the  
 6 Treasury Department but not yet adopted as final are known as "proposed regulations." For reasons such as substantial  
 7 adverse public comment or internal disagreement within the Treasury about the wisdom of a particular proposed regulation,  
 8 proposed regulations can languish for years in the status of merely proposed and not final rules.

9 An exception to the notice and comment procedures of 5 U.S.C. §553 exists for cases in which the agency believes the  
 10 procedures are "impracticable, unnecessary, or contrary to the public interest." Particularly in the recent past, the Treasury  
 11 Department has frequently invoked this exception in promulgating *temporary regulations* for prompt guidance following  
 12 significant tax legislation. Temporary regulations are often issued in "question-and-answer" form, reflecting the Treasury  
 13 Department's positions on the most obvious and frequently noted issues generated by the legislation. Temporary regulations  
 14 must also be issued as proposed regulations, but they expire if not finally adopted within three years of the date they are  
 15 issued.

### 16 **3.12.2.2 "Legislative" and "Interpretive" Regulations<sup>60</sup>**

17 Section 7805(a) [of the Internal Revenue Code] directs the Treasury Secretary "or his delegate" to "prescribe all needful rules  
 18 and regulations for the enforcement" of the Code. Regulations promulgated under this grant of authority are known as  
 19 "interpretive" (or "interpretative") regulations. Regulations are formulated by the IRS and approved by Treasury Department  
 20 personnel. See Procedural Rules of the IRS, 26 C.F.R. §601.601(a)(1).

21 In addition to the blanket authority of I.R.C. Section 7805(a), authority to issue regulations is often contained in specific  
 22 sections of the Code. When regulations are issued pursuant to such specific authorization or direction, they are "legislative"  
 23 or "substantive" regulations that have the force and effect of law, unless they exceed the scope of the legislation or are  
 24 unreasonable or were not issued according to prescribed procedures. "Legislative" or "substantive" regulations are issued by  
 25 IRS experts to write rules for highly technical areas.

26 As an example of a "legislative" regulation, 26 U.S.C. §7872(h)(1) says:

27 *"In General—the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the*  
 28 *purposes of this section, including –(A) regulations providing that where, by reason of varying rates of interest,*  
 29 *conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest in the loan,*  
 30 *or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to*  
 31 *the provisions of this section will be made to the extent necessary to carry out the purposes of this section..."*

32 How can you legally tell the difference between "interpretive" and "legislative" regulations? When a regulation is issued or  
 33 proposed, the transmittal includes a paragraph indicating the Treasury's authority for issuing the regulation, either a specific  
 34 Code section (legislative) or Code section 7805 (interpretive). Courts generally uphold interpretive regulations unless they  
 35 clearly contravene congressional intent; legislative regulations are virtually unassailable.<sup>61</sup>

### 36 **3.12.2.3 Procedural Regulations**

37 Regulations describing the organization of the IRS and its "housekeeping" rules are set forth in the IRS Statement of  
 38 Procedural Rules, which is contained in 26 C.F.R. Part 601. These regulations are preceded by "601" and are cited, for  
 39 example, as "26 C.F.R. § 601.509," to distinguish them from regulations issued by the Treasury Department. Legislative and  
 40 interpretive regulations, issued by the Treasury Department, are cited differently, and the number immediately following the  
 41 § symbol identifies the type of tax provision they implement. Income tax regulations, for example, are preceded by a "1,"  
 42 and are cited as follows: "Reg. §1.61" (which indicates a regulation under section 61 of the Code). Procedural regulations  
 43 are promulgated by the IRS, not the Treasury Department, and are not subject to the notice-and-comment requirements of the  
 44 APA [Administrative Procedures Act]. Unlike legislative and interpretive regulations, procedural regulations may have

<sup>60</sup> Content of this section based on book entitled Federal Tax Research: Guide to Materials and Techniques, Fifth Edition, Gail Levin Richmond, 1997, ISBN 1-56662-457-6, p. 40.

<sup>61</sup> See *Commissioner v. South Texas Lumber Co.*, 333 U.S. 496 (1948); *United States v. Vogel Fertilizer Co.*, 455 U.S. 16 (1982). Taxpayers may litigate a regulation's status as legislative or interpretive. See, e.g., *Newborn v. Commissioner*, 94 T.C. 610 (1990).

retroactive effect. I.R.C. §7805(b)(6). Procedural regulations are written by the Commissioner of Internal Revenue for administrative purposes and do not have the force and effect of law. You may not therefore cite them as a basis for a claim in court because they confer no rights upon you, even if you claim to be a "taxpayer". See:

- [Einhorn v. Dewitt, 618 F.2d. 347 \(5th Cir. 06/04/1980\)](#)
- [Luhring v. Glotzbach, 304 F.2d. 560 \(4th Cir. 05/28/1962\)](#)

Some regulations address matters of procedure, but are not "procedural regulations," as that term is defined above. For example, rules establishing "taxpayer" obligations to file certain forms or furnish certain information are often included in interpretive regulations. When such procedural matters are included in an interpretive or legislative regulation, the Treasury Department follows the APA notice-and-comment rules and the regulations are not "procedural," although they cover matters of procedure. Similarly, regulations interpreting the administrative and procedural sections of the Code, which are cited as "Reg. §§ 301.6001" et seq., are treated as interpretive regulations.

While legislative and interpretive regulations are binding authority for both the Service and taxpayers, the Service will not always be bound by its procedural rules. The *Internal Revenue Manual* is a lengthy volume of procedures prescribed by the IRS as procedural regulations to be followed by IRS personnel. Generally, procedural rules that affect individuals' rights will be binding on an agency, even if the rules are stricter than the law otherwise requires. *Morton v. Ruiz* (S.Ct.1974). However, where the procedural regulation was not relied on by the individual, and it had no effect on his conduct, failure by the IRS to comply with the procedural rule does not require that the evidence obtained in violation of the rule be suppressed. *United States v. Caceres* (S.Ct.1979) (failure to follow procedures in *Internal Revenue Manual*). Generally, it appears that if the right granted under the procedure is relatively unimportant, and if the relief necessary to correct the failure by the IRS to comply is relatively harsh, there is little likelihood that the taxpayer's challenge to the IRS action will be sustained.

### 3.12.3 You Cannot Be Prosecuted for Violating an Act Unless You Violate Its Implementing Regulations

"...we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."  
[*California Bankers Ass'n v. Shultz*, 416 U.S. 21 (1974)]

"An individual cannot be prosecuted for violating the act unless he violates the implementing regulations."  
[*United States v. Reinis*, 794 F. 2d 506 (9<sup>th</sup> Cir. 1986), *United States v. Murphy*, 809 F.2d. 1427 (9<sup>th</sup> Cir. 1987)]

"Criminal penalties...can attach only upon violation of regulations promulgated by the Secretary." [U.S. v. Reinis, 794 F.2d. 506]

"Individual cannot be prosecuted for violating Currency Reporting Act unless he violates the implementing regulations." [31 U.S.C.A. §5311 et. seq.]

CONSPIRACY: "Where regulations...did not impose duty to disclose information, failure to disclose was not conspiracy to defraud government." 18 USCA, 31 U.S.C.A. §5311

"Because Congress has delegated to the Commissioner the power to promulgate 'all needful rules and regulations for the enforcement of (the Internal Revenue Code) 26 U.S.C. §7805(a), we must defer to his regulatory interpretations of the Code so long as they are reasonable."  
[*National Muffler Dealers Assn., Inc. v. United States*, 440 U.S. 472, 476-477, 99 S.Ct. 1304, 1306-1307, 59 L.Ed.2d. 519.]

"Due process requires that penal statutes define criminal offense with sufficient clarity that the ordinary person can understand what conduct is prohibited." U.S.C.A Const. Amend 5

Without the statute there is no authority for implementing a regulation and without the regulation, no civil or criminal penalties can be imposed. Further regulations cannot change or enlarge the operation of the statute but only clarify it.

"To the extent that the regulations implement the statute, they have the force and effect of law.. The regulation implements the statute and cannot vitiate or change the statute..."  
[*Spreckles v. C.I.R.*, 119 F.2d, 667]

Under *Curley v. U.S.*, 791 F.Supp. 52 (E.D.N.Y. 1992), at 55, we read:

1 (6) "Plaintiff relies heavily on the Internal Revenue Manual ("IRM") in her argument that the assessment is  
2 procedurally valid. However, **the IRM does not have the force and effect of law**" *United States v. New York*  
3 *Telephone Co.*, 644 F.2d. 953, 959 n. 10 (2<sup>nd</sup> Cir. 1981). Since the **IRM is not law**, any alleged failure to adhere  
4 to its provisions will not necessarily result in an invalid assessment. See *Foxman v. Renison*, 449 U.S. 993, 101  
5 S.Ct. 530, 66 L.Ed.2d. 290 (1980). 449 U.S. 1119, 101 S.Ct. 932, 66 L.Ed.2d. 848 (1981). *Kopunek v. Director*  
6 *of Internal Revenue*, 528 F.Supp. 134, 137 (1981).

7 (7) However, failure to adhere to agency regulations may amount to a denial of due process if the regulations  
8 are required by the constitution or statute." *Arzanipour v. Immigration and Naturalization Service*, 866 F.2d.  
9 743, 746 (5<sup>th</sup> Cir. 1989).

10 The type of regulation that must be violated to incur civil or criminal penalties must be either a legislative or interpretive  
11 regulation written by the Department of the Treasury. That means it must either be a Part 1 (26 C.F.R. § 1.XXXX) or a Part  
12 301 (26 C.F.R. §301.XXXX) regulation. Part 601 regulations, which apply to Subtitle F of the Internal Revenue Code, do  
13 NOT qualify as legislative or interpretive regulations for law enforcement because they are procedural in nature and don't  
14 necessarily even apply to the agency (IRS in this case) they are written for in all cases!

15 The table below provides a list of the ONLY enforcing regulations for Title 26, mostly under Subtitle F, which is Procedures  
16 and Administration:  
17

Table 3-9: Enforcement Regulations

<i>Title 26 U.S.C.</i>	<i>Description</i>	<i>Location of Enforcement Regulations</i>
§6020	Returns prepared for or executed by Secretary	27 C.F.R. Parts 53, 70
§6201	Assessment authority	27 C.F.R. Part 70
§6203	Method of assessment	27 C.F.R. Part 70
§6212	Notice of deficiency	No Regulations
§6213	Restrictions applicable to: deficiencies, petition to Tax Court	No Regulations
§6214	Determination by Tax Court	No Regulations
§6215	Assessment of deficiency found by Tax Court	No Regulations
§6301	Collection authority	27 C.F.R. Parts 24, 25, 53, 70, 250, 270, 275
§6303	Notice and demand for tax	27 C.F.R. Parts 53, 70
§6321	Lien for taxes	27 C.F.R. Part 70
§6331	Levy and Distraint	27 C.F.R. Part 70
§6332	Surrender of property subject to levy	27 C.F.R. Part 70
§6420	Gasoline used on farms	No Regulations
§6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 C.F.R. Parts 70, 170, 194, 296
§6651	Failure to file tax return or to pay tax	27 C.F.R. Parts 24, 25, 70, 194
§6671	Rules for application of assessable penalties	27 C.F.R. Part 70
§6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 C.F.R. Part 70
§6701	Penalties for adding and abetting understatement of tax liability	27 C.F.R. Part 70
§6861	Jeopardy assessments of income, estate, and gift taxes	No Regulations
§6902	Provisions of special application to transferees	No Regulations
§7201	Attempt to evade or defeat tax	No Regulations
§7203	Willful failure to file return, supply information, or pay tax	No Regulations
§7206	Fraud and false statements	No Regulations
§7207	Fraudulent returns, statements and other documents	27 C.F.R. Part 70
§7210	Failure to obey summons	No Regulations
§7212	Attempts to interfere with administration of Internal Revenue Laws	27 C.F.R. Parts 170, 270, 275, 290, 295, 296
§7342	Penalty for refusal to permit entry, or examination	27 C.F.R. Parts 24, 25, 170, 270, 275, 290, 295, 296
§7343	Definition of term "person"	No Regulations
§7344	Extended application of penalties relating to officers of the Treasury Department	No Regulations
§7401	Authorization (judicial proceedings)	27 C.F.R. Part 70
§7402	Jurisdiction of district courts	No Regulations
§7403	Action to enforce lien or to suspend property to payment of tax	27 C.F.R. Part 70
§7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulations
§7601	Canvass of districts for taxable persons and objects	27 C.F.R. Part 70
§7602	Examination of books and witnesses	27 C.F.R. Parts 70, 170, 296
§7603	Service of summons	27 C.F.R. Part 70
§7604	Enforcement of summons	27 C.F.R. Part 70
§7605	Time and place of examination	27 C.F.R. Part 70
§7608	Authority of Internal Revenue enforcement officers	27 C.F.R. Parts 70, 170, 296

Most noteworthy of the above is that ALL of the implementing and enforcement regulations identified in Subtitle F are associated with Title 27, Alcohol, Tobacco, and Firearms, and NOT Subtitle A Income taxes! There simply are no implementing regulations under the tax imposed in I.R.C. Section 1 that authorize the use of distraint by the Internal Revenue Service. Distraint, also called enforcement, includes the use of levy, assessment, penalties, summons, or collection to enforce a tax. Why? Because there is no statute making anyone liable for the tax! Since the income tax is a voluntary donation program for the municipal government of the District of Columbia created mainly for elected or appointed government

employees, then most Americans aren't the proper subject of the tax and the IRS can't force them to without enforcement authority! This point is key to your success in all your dealings with the Internal Revenue Service. If there were enforcement provisions for the income tax imposed in Section 1 of the I.R.C., they would be written in the right-hand column above as "26 C.F.R. Part 1," but you can see that they don't exist. You can check this for yourself at the following web address:

<https://www.govinfo.gov/content/pkg/GPO-CFR-INDEX-2018/html/GPO-CFR-INDEX-2018-4.htm>

The statute and the enforcement regulations must *together* form a pair that constitutes *the law*. If either of the two don't exist, then the law cannot be enforced!

*Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself, and assign the resulting tags to their respective geographical areas. Once promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language. **The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other.**"*  
[U.S. v. Mersky, 361 U.S. 431 (1960)]

*"...the Act's civil and criminal penalties attach only upon violation of the regulation promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone...The Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so tested they are valid."*  
[Calif. Bankers Assoc. v. Shultz, 416 U.S. 21, 44, 39 L.Ed.2d. 812, 94 S.Ct. 1494]

*"Failure to adhere to agency regulations [by the IRS or other agency] may amount to denial of due process if regulations are required by constitution or statute..."*  
[Curley v. United States, 791 F.Supp. 52]

*"Although the relevant statute authorized the Secretary to impose such a duty, his implementing regulations did not do so. Therefore we held that there was no duty to disclose..."*  
[United States v. Murphy, 809 F.2d. 142, 1431]

Based on the foregoing, a government official attempting an enforcement action against those domiciled in states of the Union who are protected by the Constitution has the burden of providing one of the following two forms of legal evidence or the government employee loses its authority to enforce against him and is engaging in a constitutional tort which results in a surrender of official and sovereign immunity on the part of the employee:

1. The government employee produces an implementing regulation published in the Federal Register which authorizes the enforcement action.
2. The government produces legally admissible evidence conforming with the Federal Rules of Evidence which proves that the person who is the subject of the enforcement action is a member of one of the three groups that are specifically exempted from the requirement for publication in the Federal Register, which are:
  - 2.1. "A military and foreign affairs function of the United States". 5 U.S.C. §553(a)(1).
  - 2.2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. §553(a)(2).
  - 2.3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". 5 U.S.C. §1505(a)(1).

Usually, the only evidence in the possession of the government which might link a person to membership in any one of the above exempted groups is

1. Information Returns such as IRS Forms W-2, W-4, 1042, 1098, and 1099
2. A tax return filled out by the subject and signed under penalty of perjury. This is legally admissible evidence that you are a "public official", because EVERYTHING that goes on an IRS form 1040 is "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". See the following for proof:

*The Trade or Business Scam*, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>

- 1 3. An SSA Form SS-5. This proves that the party is a federal benefit recipient who is an “individual” as defined in 5 U.S.C.  
2 §552a(a)(2) and “federal personnel” entitled to receive federal retirement benefits as defined in 5 U.S.C. §552a(a)(13).  
3 Both of these entitled “federal personnel” and “individuals” are government employees or agents, as exhaustively proven  
4 in the memorandum of law below:

Resignation of Compelled Social Security Trustee, Form #06.002  
<http://sedm.org/Forms/FormIndex.htm>

5 **3.12.4 Regulations cannot exceed the scope of the statute they are based on**

6 It is very important to realize that a regulation which implements a section of the Internal Revenue Code found in 26 U.S.C.  
7 *may NOT enlarge or expand the operation of that code section.* Executive departments within the federal government only  
8 have the authority delegated to them to implement the laws passed by Congress in the I.R.C., but not to expand or enlarge  
9 them. In practice, however, this unlawful tactic is commonly done, most notably in the use of definitions found in 26 U.S.C.  
10 §7701 and the distraint provisions found in 26 C.F.R. §301.6331. Be on the lookout for illegal regulations, because it almost  
11 certainly will be your downfall in any litigation! *Being aware of this scam is the key to challenging jurisdiction of the IRS to*  
12 *enforce income taxes. An example of where this trick is used is in 26 C.F.R. §1.1-1, where the Secretary of the Treasury used*  
13 *the word “liable to tax” even though the corresponding section of the Internal Revenue Code in 26 U.S.C. §1 doesn’t make*  
14 *anyone “liable”.*

15 **3.12.5 Part 1, Subchapter N of the 26 Code of Federal Regulations**

1 Part I of Subchapter N, and the regulations thereunder:

STATUTES	IMPLEMENTING REGULATIONS
<p><u>Subchapter N</u> – Tax based on <u>income from sources</u> within or without the United States</p> <p><u>Part I</u> - Source rules and other general rules relating to <u>foreign</u> income</p> <p><b>Sec. 861. Income from sources within the United States</b>                      a) Gross income from sources within United States                      The following items of gross income shall be treated as income from sources within the United States:                      (1) Interest...                      (2) Dividends...                      (3) Personal services - Compensation for labor or personal services...                      (4) Rentals and royalties...                      (5) Disposition of United States real property interest...                      (6) Sale or exchange of inventory property...                      (7) ...underwriting income...                      (8) Social security benefits...  <b>(b) Taxable income from sources within United States</b>                      From the items of gross income specified in subsection (a) as being income from sources within the United States there shall be deducted the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of any expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. <b>The remainder, if any, shall be included in full as taxable income from sources within the United States...</b>                      (c) Foreign business requirements...                      (d) Special rule for... subsection (a)(2)(B)...                      (e) Income from certain railroad rolling stock...                      (f) Cross reference...</p>	<p>Part I - Income taxes</p> <p><b><u>Determination of sources of income</u></b></p> <p><b>Sec. 1.861-1 Income from sources within the United States.</b>                      (a) Categories of income. <b>Part I (section 861 and following), subchapter N, chapter 1 of the Code, and the regulations thereunder determine the sources of income for purposes of the income tax...</b> The statute provides for the following three categories of income:                      (1) <b>Within the United States.</b> The gross income from sources within the United States, consisting of the items of gross income specified in section <b>861(a)</b>... [plus part of 863 income] See Secs. 1.861-2 to 1.861-7, inclusive, and Sec. 1.863-1. The <b>taxable income from sources within the United States...</b> shall be determined by deducting therefrom, in accordance with sections <b>861(b)</b> and 863(a), [allowable deductions]... See Secs. <b>1.861-8</b> and 1.863-1.                      (2) Without the United States...                      (3) Partly within and partly without...                      (b) <b>Taxable income from sources within the United States.</b> The taxable income from sources within the United States shall consist of the taxable income described in paragraph (a)(1) of this section... [plus part of (a)(3) income]                      (c) Computation of income... [deals with income from both within and without U.S.]                      Sec. 1.861-2 Interest.                      Sec. 1.861-3 Dividends.                      Sec. 1.861-4 Compensation for labor or personal services.                      Sec. 1.861-5 Rentals and royalties.                      Sec. 1.861-6 Sale of real property.                      Sec. 1.861-7 Sale of personal property.  <b>Sec. 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.</b>                      (a) In general--(1) Scope. <b>Sections 861(b) and 863(a) state in general terms how to determine taxable income of a taxpayer from sources within the United States</b> after gross income from sources within the United States has been determined... <b>The rules contained in this section apply in determining taxable income of the taxpayer from specific sources and activities under other sections of the Code,</b> referred to in this section as <b>operative sections.</b> See <b>paragraph (f)(1)</b> of this section for a list and description of operative sections. The operative sections include, among others, sections <b>871(b)</b> and <b>882...</b>                      (2) Allocation and apportionment of deductions...                      (3) Class of gross income. For purposes of this section, the gross income to which a specific deduction is definitely related is referred to as a "class of gross income" and may consist of one or more <b>items...</b> of gross income enumerated in <b>section 61,</b> namely:... [lists items]                      (4) Statutory grouping of gross income and residual grouping of gross income. For purposes of this section, the term "statutory grouping of gross income" or "<b>statutory grouping</b>" means the <b>gross income from a specific source or activity which must first be determined in order to arrive at "taxable income" from which specific source or activity under an operative section.</b> (See <b>paragraph (f)(1)</b> of this section.)...                      (5) Effective date...                      (b) Allocation... [defines "class of gross income" again] See... <b>paragraph (d)(2) of this section which provides that a class of gross income may include excluded income.</b>                      (c) Apportionment of deductions...                      (d) Excess of deductions and <b>excluded and eliminated income...</b>                      (2) Allocation and apportionment... [Reserved] For guidance, see Sec. <b>1.861-8T(d)(2).</b>                      (e) Allocation and apportionment...                      (f) Miscellaneous matters--(1) Operative sections. <b>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.</b>                      (i) Overall limitation to the <b>foreign tax credit...</b> [26 U.S.C. 904]                      (ii) [Reserved]                      (iii) <b>DISC and FSC taxable income...</b> [26 U.S.C. 925, 994]                      (iv) Effectively connected taxable income. <b>Nonresident alien individuals and foreign corporations</b> engaged in trade or business within the United States, under sections <b>871(b)(1)</b> and <b>882(a)(1)</b>...                      (v) <b>Foreign base company income...</b> [26 U.S.C. 954]                      (vi) Other operative sections. The rules provided in this section also apply in determining--                      (A) The amount of <b>foreign source items...</b>; (B) The amount of <b>foreign mineral income...</b>; (C) [Reserved]; (D) The amount of <b>foreign oil and gas...</b>; (E) [about Puerto Rico]; (F) [about Puerto Rico]; (G) [about Virgin Islands]; (H) The</p>

STATUTES	IMPLEMENTING REGULATIONS
	<p>income derived from <b>Guam</b>...; (I) [about China Trade Act]; (J) [about foreign corporations]; (K) [about insurance income of <b>foreign</b> corporations]; (L) The <b>international</b> boycott factor...; (M) [about Merchant Marine Act]...</p> <p>(2) Application to more than one operative section....</p> <p>(3) Special rules of section 863(b)</p> <p>(i) In general...</p> <p>(ii) Relationship of sections 861, 862, 863(a), and 863(b). Sections <b>861</b>, 862, 863(a), and 863(b) are the four provisions applicable in <b>determining taxable income from specific sources</b>...</p> <p>(g) General examples. The following examples illustrate the principles of this section. In each example, unless otherwise specified, the operative section which is applied and gives rise to the statutory grouping of gross income is the overall limitation to the <b>foreign tax credit</b> under section 904(a)...</p> <p><b>Sec. 1.861-8T</b> Computation of taxable income from sources within the United States and from other sources and activities (temporary).</p> <p>(a) In general... (b) Allocation... (c) Apportionment of deductions...</p> <p>(d) Excess of deductions and <b>excluded and eliminated items of income</b>.</p> <p>(1) [Reserved]</p> <p>(2) Allocation and apportionment to exempt, excluded or eliminated income--</p> <p>(i) In general...</p> <p>(ii) Exempt income and exempt asset defined--(A) In general. For purposes of this section, the term <b>exempt income means any income that is, in whole or in part, exempt, excluded, or eliminated for federal income tax purposes</b>...</p> <p>(iii) Income that is not considered tax exempt. The following items are <b>not</b> considered to be <b>exempt</b>, eliminated, or excluded income and, thus, may have expenses, losses, or other deductions allocated and apportioned to them:</p> <p>(A) In the case of a <b>foreign</b> taxpayer...</p> <p>(B) In computing the combined taxable income of a <b>DISC</b> or <b>FSC</b>...</p> <p>(C) For all purposes under subchapter N... the gross income of a <b>possessions</b> corporation...</p> <p>(D) <b>Foreign earned income</b> as defined in section 911 and the regulations thereunder...</p> <p>(iv) Prior years....</p> <p>(e) Allocation and apportionment of certain deductions...</p>
<p><b>Sec. 862.</b> Income from sources <b>without</b> the United States...</p>	<p>Sec. 1.862-1 Income specifically from sources <b>without</b> the United States.</p> <p>(a) Gross income... [lists items of income]</p> <p>(b) Taxable income. The taxable income from sources without the United States, in the case of the items of gross income specified in paragraph (a) of this section, shall be determined on the same basis as that used in <b>Sec. 1.861-8</b> for determining the <b>taxable income from sources within the United States</b>.</p> <p>(c) Income from certain property...</p>
<p><b>Sec. 863.</b> Special rules for determining source... [deals with income from sources partly within and partly without the United States]</p>	<p>Sec. 1.863-0 Table of contents...</p> <p>Sec. 1.863-1 Allocation of gross income under section 863(a).</p> <p>(a) In general. Items of gross income other than those specified in section 861(a) and section 862(a)...</p> <p>(b) Natural resources...</p> <p>(c) Determination of taxable income. The taxpayer's <b>taxable income from sources within or without the United States will be determined under the rules of Secs. 1.861-8 through 1.861-14T for determining taxable income from sources within the United States</b>.</p> <p>(d) Scholarships, fellowship grants, grants, prizes and awards--</p> <p>(e) Effective dates...</p> <p>Sec. 1.863-2 through 1.863-5 [about allocation and apportionment, income from sales, transportation services, etc.]</p> <p>Sec. 1.863-6 Income from sources within a foreign country or possession of the United States.</p> <p>The principles applied in <b>Secs. 1.861-1 to 1.863-5</b>, inclusive, for <b>determining the gross and the taxable income from sources within and without the United States</b> shall generally be applied, for purposes of the income tax, in determining the gross and the taxable income from sources within and without a foreign country, or within and without a possession of the United States.</p> <p>Sec. 1.863-7 Allocation of income attributable to certain notional principal contracts under section 863(a).</p>
<p><b>Sec. 864.</b> Definitions and special rules...</p>	<p>Sec. 1.864-1 through 1.864-8T [definitions]</p>
<p><b>Sec. 865.</b> [personal property sales]</p>	<p>Sec. 1.865-1T through 1.865-2T [Loss with respect to personal property]</p>

1 Predecessor of Part I of Subchapter N, and related regulations (1945)

STATUTES	IMPLEMENTING REGULATIONS
<p><b>Sec. 119. Income from sources within the United States</b></p> <p>(a) Gross Income from Sources in United States. - The following items of gross income shall be treated as income from sources within the United States:</p> <p>(1) Interest. - Interest from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including:...</p> <p>(2) Dividends...</p> <p>(3) Personal services. - Compensation for labor or personal services...</p> <p>(4) Rentals and royalties...</p> <p>(5) Sale of real property...</p> <p>(6) Sale of personal property...</p> <p>(b) Net Income from Sources in United States. - From the items of gross income specified in subsection (a) of this section</p>	<p><b>Sec. 29.119-1. Income from sources within the United States.</b></p> <p><b>Nonresident alien individuals, foreign corporations,</b> and citizens of the United States or domestic corporations <b>entitled to the benefits of section 251</b> [*] are taxable only upon income from sources within the United States. Citizens of the United States and domestic corporations <b>entitled to the benefits of section 251</b> [*] are, however, taxable upon income received within the United States, whether derived from sources within or without the United States. (See sections 212(a), 231(c), and 251.)</p> <p>The Internal Revenue Code divides the income of <b>such taxpayers</b> into three classes:</p> <p>(a) Income which is derived in full from sources within the United States;</p> <p>(b) Income which is derived in full from sources without the United States;</p> <p>(c) Income which is derived partly from sources within and partly from sources without the United States.</p> <p>The taxable income from sources within the United States includes that derived in full from sources within the United States and that portion of the income which is derived partly from sources within and partly from sources without the United States which is allocated or apportioned to sources within the United States.</p> <p>Sec. 29.119-2. Interest. There shall be included in the gross income from sources within the United States, of <b>nonresident alien individuals, foreign corporations,</b> and citizens of the United States or domestic corporations which are <b>entitled to the benefits of section 251</b> [*], all interest received or accrued, as the case may be, from the United States, any Territory, any political subdivision of a Territory, or the District of Columbia, and interest on bonds, notes, or other interest-bearing obligations of residents of the United States, whether corporate or otherwise, except:...</p> <p>Sec. 29.119-3. Dividends...</p> <p>Sec. 29.119-4. Compensation for labor or personal services...</p> <p>Sec. 29.119-5. Rentals and royalties...</p> <p>Sec. 29.119-6. Sale of real property...</p> <p>Sec. 29.119-7. Income from sources without the United States...</p> <p>Sec. 29.119-8. Sale of personal property...</p> <p>Sec. 29.119-9. Deductions in general.</p> <p>The deductions provided for in chapter 1 shall be allowed to <b>nonresident alien individuals and foreign corporations</b> engaged in trade or business within the United States, and to citizens of the United States and domestic corporations <b>entitled to the benefits of section 251</b> [*], only if and to the extent provided in sections 213, 215, 232, 233, and 251.</p> <p>Sec. 29.119-10. Apportionment of deductions.</p> <p>From the items specified in sections 29.119-1 to 29.119-6, inclusive, as being derived</p>

STATUTES	IMPLEMENTING REGULATIONS
<p>there shall be deducted [allowable deductions]. <b>The remainder, if any, shall be included in full as net income from sources within the United States.</b></p> <p>(c) Gross Income from Sources <u>Without</u> United States...</p> <p>(d) Net Income from Sources <u>Without</u> United States...</p> <p>(e) Income from Sources <u>Partly Within and Partly Without</u> United States...</p> <p>(f) Definitions...</p>	<p>specifically from sources within the United States there shall, in the case of <u>nonresident alien individuals</u> and <u>foreign corporations</u> engaged in trade or business within the United States, be deducted [allowable deductions]. <b>The remainder shall be included in full as net income from sources within the United States...</b></p> <p style="text-align: center;"><b>[* - One can be entitled to the benefits of section 251 only if he receives a certain percentage of his income from within federal <u>possessions</u>.]</b></p>

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**3.12.6 26 C.F.R. §1.861-8(a): Taxable Income**

"...The rules contained in this section apply in determining taxable income of the taxpayer from specific sources and activities under other sections of the Code referred to in this section as operative sections. See paragraph (f)(1) of this section for a list and description of operative sections." (Emphasis added)

26 C.F.R. Sections 1.861 through 1.863 are the implementing regulations that derive from 26 U.S.C. Section 861 discussed earlier in section 3.9.5. You should read 26 U.S.C. §861 and section 3.12.6 before you attempt to understand 26 C.F.R. §1.861, which is the implementing regulation for 26 U.S.C. §861. 26 C.F.R. §1.861 defines the meaning of "source" within 26 U.S.C. §61 and 861. The regulation under discussion, 26 C.F.R. §1.861-8(a), makes reference to 'sources' within, as well as without, the United States. Below are the only sources that we could find listed, from which income must derive, in order for income to be taxable for the purpose of the Federal Income Tax.

Code of Federal Regulations 1.861-8(f)(1)

(i) Overall limitation to the foreign tax credit.

(ii) [Reserved]

(iii) DISC and FSC taxable income. (note: DISC is Direct International Sales Corp, and FSC is a Foreign Sales Corp)

(iv) Effectively connected taxable income. Nonresident alien individuals and foreign corporations engaged in trade or business within the United States,...

(v) Foreign base company income.

(vi) Other operative sections.

(A) "...foreign source items of tax..."

(B) "...foreign mineral income..."

(C) [Reserved]

(D) "...foreign oil and gas extraction income..."

(E) "...citizens entitled to the benefits of section 931 and the section 936 tax credit..."

(F) "...residents of Puerto Rico..."

(G) "...income tax liability incurred to the Virgin Islands..."

(H) "...income derived from Guam..."

(I) "...China Trade Act corporations..."

(J) "...income of a controlled foreign corporation..."

(K) "...income from the insurance of U.S. risks..."

(L) "...international boycott factor...attributable taxes and income under section 999..."

(M) "...income attributable to the operation of an agreement vessel under section 607 of the Merchant Marine Act of 1936..."

Which of the above 'sources' does your employees' (and/or your) 'income', 'items' or 'wages' derive from?... Interesting... isn't it? This section shows quite clearly that the average U.S. Citizen with income from the 50 Union states doesn't owe tax because the income does not come from a taxable source.

Take NOTICE: The IRS has claimed in a case in South Carolina that § 861 has nothing to do with gross income in § 61. This did not last long as the Department of Justice was quickly reaching for things within § 861, without regarding the full effect of the attached regulations, to try to support their frail position. This seems to open up the application of the statute and regulations into the argument of gross income before the court and the public. If that were not enough, they also have to try to defeat this:

**3.12.7 26 C.F.R. §1.861-8T(d)(2)(ii)(A): Exempt income**

26 C.F.R. §1.861-8T(d)(2)(ii)(A)

"In general. For purposes of this section, the term "exempt income" means any income that is in whole or in part, exempt, excluded, or eliminated for federal income tax purposes." (Emphasis added)

**3.12.8 26 C.F.R. §1.861-8T(d)(2)(iii): Income Not Exempt from Taxation**

This section shows quite clearly that the only income that is not exempt from federal taxes (income for which citizens are liable for tax) is foreign income. Notice that they don't explicitly mention that income of citizens from domestic sources is NOT taxable? The reason they don't make this clear is because they don't want you to know! Below is the regulation:

*(iii) Income that is not considered tax exempt.*

*The following items are not considered to be exempt, eliminated, or excluded income and, thus, may have expenses, losses, or other deductions allocated and apportioned to them:*

*(A) In the case of a foreign taxpayer (including a foreign sales corporation (FSC)) computing its effectively connected income, gross income (whether domestic or foreign source) which is not effectively connected to the conduct of a United States trade or business;*

*(B) In computing the combined taxable income of a DISC or FSC and its related supplier, the gross income of a DISC or a FSC;*

*(C) For all purposes under subchapter N of the Code, including the computation of combined taxable income of a possessions corporation and its affiliates under section 936(h), the gross income of a possessions corporation for which a credit is allowed under section 936(a); and*

*(D) Foreign earned income as defined in section 911 and the regulations thereunder (however, the rules of section 1.911-6 do not require the allocation and apportionment of certain deductions, including home mortgage interest, to foreign earned income for purposes of determining the deductions disallowed under section 911(d)(6)).*

NOTE: The only income above related to U.S. Citizens is (D)

This is of further importance as the definition of "wages" in §3401(a) to be withheld from in accordance with §3402, excludes all remuneration paid to U.S. Citizens by employers, except income which is deemed to be gross income under § 911, or other income related to foreign and U.S. possession sources.

This law confirms our viewpoint, in simple terms according to Black's Law Dictionary, that if the income in question comes from a source 'excluded' from the law, and thus not mentioned within the law as being taxable, it cannot then meet the source requirements of § 861, its regulations, and thus section 61(a) to be "Gross income", and is by definition EXEMPT.

### 3.12.9 26 C.F.R. §1.861-8(f)1 Taxable sources

This extremely important section of code identifies taxable sources for ALL other subsections, including:

- Income from sources "within the U.S.\*\*\*" under 26 U.S.C. §861
- Income from sources without the U.S.\*\* under 26 U.S.C. §862.
- Income "effectively connected with a trade or business in the United States\*\*\*" under 26 U.S.C. §871(b)(1) and 882(a)(1).

This section is the lynchpin of all arguments about taxable sources no matter where you live, and is the mother of all tax loopholes. The section provides examples of how to compute taxable income as well.

*(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.*

*(i) Overall limitation to the foreign tax credit. Under the overall limitation to the foreign tax credit, as provided in section 904(a)(2) (as in effect before enactment of the Tax Reform Act of 1976, or section 904(a) after such enactment) the amount of the foreign tax credit may not exceed the tentative U.S. tax (i.e., the U.S. tax before application of the foreign tax credit) multiplied by a fraction, the numerator of which is the taxable income from sources without the United States and the denominator of which is the entire taxable income. Accordingly, in this case, the statutory grouping is foreign source income (including, for example, interest received from a domestic corporation which meets the tests of section 861(a)(1)(B), dividends received from a domestic corporation which has an election in effect under section 936, and other types of income specified in section 862). Pursuant to sections 862(b) and 863(a) and Secs. 1.862-1 and 1.863-1, this section provides rules for identifying the deductions to be taken into account in determining taxable income from sources without the United States. See section 904(d) (as in effect after enactment of the Tax Reform Act of 1976) and the regulations thereunder which*

require separate treatment of certain types of income. See example 3 of paragraph (g) of this section for one example of the application of this section to the overall limitation.

(ii) [Reserved]

**(iii) DISC and FSC taxable income.** Sections 925 and 994 provide rules for determining the taxable income of a FSC and DISC, respectively, with respect to qualified sales and leases of export property and qualified services. The combined taxable income method available for determining a DISC's taxable income provides, without consideration of export promotion expenses, that the taxable income of the DISC shall be 50 percent of the combined taxable income of the DISC and the related supplier derived from sales and leases of export property and from services. In the FSC context, the taxable income of the FSC equals 23 percent of the combined taxable income of the FSC and the related supplier. Pursuant to regulations under section 925 and 994, this section provides rules for determining the deductions to be taken into account in determining combined taxable income, except to the extent modified by the marginal costing rules set forth in the regulations under sections 925(b)(2) and 994(b)(2) if used by the taxpayer. See Examples (22) and (23) of paragraph (g) of this section. In addition, the computation of combined taxable income is necessary to determine the applicability of the section 925(d) limitation and the "no loss" rules of the regulations under sections 925 and 994.

**(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 which is effectively connected with the conduct of a trade or business within the 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 Sec. 1.882-5)) which are to be taken into account in determining taxable income. See example 21 of paragraph (g) of this section.

**(v) Foreign base company income.** Section 954 defines the term "foreign base company income" with respect to controlled foreign corporations. Section 954(b)(5) provides that in determining foreign base company income the gross income shall be reduced by the deductions of the controlled foreign corporation "properly allocable to such income". This section provides rules for identifying which deductions are properly allocable to foreign base company income.

(vi) Other operative sections. The rules provided in this section also apply in determining--

(A) The amount of foreign source items of tax preference under section 58(g) determined for purposes of the minimum tax;

(B) The amount of foreign mineral income under section 901(e);

(C) [Reserved]

(D) The amount of foreign oil and gas extraction income and the amount of foreign oil related income under section 907;

(E) The tax base for citizens entitled to the benefits of section 931 and the section 936 tax credit of a domestic corporation which has an election in effect under section 936;

(F) The exclusion for income from Puerto Rico for residents of Puerto Rico under section 933;

(G) The limitation under section 934 on the maximum reduction in income tax liability incurred to the Virgin Islands;

(H) The income derived from Guam by an individual who is subject to section 935;

(I) The special deduction granted to China Trade Act corporations under section 941;

(J) The amount of certain U.S. source income excluded from the subpart F income of a controlled foreign corporation under section 952(b);

(K) The amount of income from the insurance of U.S. risks under section 953(b)(5);

(L) The international boycott factor and the specifically attributable taxes and income under section 999; and

(M) The taxable income attributable to the operation of an agreement vessel under section 607 of the Merchant Marine Act of 1936, as amended, and the Capital Construction Fund Regulations thereunder (26 C.F.R., part 3). See 26 C.F.R. 3.2(b)(3).

(2) Application to more than one operative section. (i) Where more than one operative section applies, it may be necessary for the taxpayer to apply this section separately for each applicable operative section. In such a case, the taxpayer is required to use the same method of allocation and the same principles of apportionment for all operative sections.

(ii) When expenses, losses, and other deductions that have been properly allocated and apportioned between combined gross income of a related supplier and a DISC or former DISC and residual gross income, regardless of which of the administrative pricing methods of section 994 has been applied, such deductions are not also allocated and apportioned to gross income consisting of distributions from the DISC or former DISC attributable to income of the DISC or former DISC as determined under the administrative pricing methods with respect to DISC or former DISC taxable years beginning after December 31, 1986. Accordingly, Example (22) of paragraph (g) of this section does not apply to distributions from a DISC or former DISC with respect to DISC or former DISC taxable years beginning after December 31, 1986. This rule does not apply to the extent that the taxable income of the DISC or former DISC is determined under the section 994(a)(3) transfer pricing method. In addition, for taxable years beginning after December 31, 1986, in the case of expenses, losses, and other

deductions that have been properly allocated and apportioned between combined gross income of a related supplier and a FSC and residual gross income, regardless of which of the administrative pricing methods of section 925 has been applied, such deductions are not also allocated and apportioned to gross income consisting of distributions from the FSC or former FSC which are attributable to the foreign trade income of the FSC or former FSC as determined under the administrative pricing methods. This rule does not apply to the extent that the foreign trade income of the FSC or former FSC is determined under the section 925(a)(3) transfer pricing method. See Example (23) of paragraph (g) of this section.

(3) Special rules of section 863(b)--(i) In general. Special rules under section 863(b) provide for the application of rules of general apportionment provided in Secs. 1.863-3 to 1.863-5, to worldwide taxable income in order to attribute part of such worldwide taxable income to U.S. sources and the remainder of such worldwide taxable income to foreign sources. The activities specified in section 863(b) are--

(A) Transportation or other services rendered partly within and partly without the United States,

(B) Sales of personal property produced by the taxpayer within and sold without the United States, or produced by the taxpayer without and sold within the United States, and

(C) Sales within the United States of personal property purchased within a possession of the United States. In the instances provided in Secs. 1.863-3 and 1.863-4 with respect to the activities described in (A), (B), and (C) of this subdivision, this section is applicable only in determining worldwide taxable income attributable to these activities.

(ii) Relationship of sections 861, 862, 863(a), and 863(b). Sections 861, 862, 863(a), and 863(b) are the four provisions applicable in determining taxable income from specific sources. Each of these four provisions applies independently. Where a deduction has been allocated and apportioned to income under one of these four provisions, the deduction shall not again be allocated and apportioned to gross income under any of the other three provisions. However, two or more of these provisions may have to be applied at the same time to determine the proper allocation and apportionment of a deduction. The special rules under section 863(b) take precedence over the general rules of Code sections 861, 862 and 863(a). For example, where a deduction is allocable in whole or in part to gross income to which section 863(b) applies, such deduction or part thereof shall not otherwise be allocated under section 861, 862, or 863(a). However, where the gross income to which the deduction is allocable includes both gross income to which section 863(b) applies and gross income to which section 861, 862, or 863(a) applies, more than one section must be applied at the same time in order to determine the proper allocation and apportionment of the deduction.

(4) Adjustments made under other provisions of the Code--(i) In general. If an adjustment which affects the taxpayer is made under section 482 or any other provision of the Code, it may be necessary to recompute the allocations and apportionments required by this section in order to reflect changes resulting from the adjustment. The recomputation made by the District Director shall be made using the same method of allocation and apportionment as was originally used by the taxpayer, provided such method as originally used conformed with paragraph (a)(5) of this section and, in light of the adjustment, such method does not result in a material distortion. In addition to adjustments which would be made aside from this section, adjustments to the taxpayer's income and deductions which would not otherwise be made may be required before applying this section in order to prevent a distortion in determining taxable income from a particular source of activity. For example, if an item included as a part of the cost of goods sold has been improperly attributed to specific sales, and, as a result, gross income under one of the operative sections referred to in paragraph (f)(1) of this section is improperly determined, it may be necessary for the District Director to make an adjustment to the cost of goods sold, consistent with the principles of this section, before applying this section. Similarly, if a domestic corporation transfers the stock in its foreign subsidiaries to a domestic subsidiary and the parent continues to incur expenses in connection with the supervision of the foreign subsidiaries (see paragraph (e)(4) of this section), it may be necessary for the District Director to make an allocation under section 482 with respect to such expenses before making allocations and apportionments required by this section, even though the section 482 allocation might not otherwise be made.

...

(5) Verification of allocations and apportionments. Since, under this section, allocations and apportionments are made on the basis of the factual relationship between deductions and gross income, the taxpayer is required to furnish, at the request of the District Director, information from which such factual relationships can be determined. In reviewing the overall limitation to the foreign tax credit of a domestic corporation, for example, the District Director should consider information which would enable him to determine the extent to which deductions attributable to functions performed in the United States are related to earning foreign source income, United States source income, or income from both sources. In addition to functions with a specific international purpose, consideration should be given to the functions of management, the direction and results of an acquisition program, the functions of operating units and personnel located at the head office, the functions of support units (including but not limited to engineering, legal, budget, accounting, and industrial relations), the functions of selling and advertising units and personnel, the direction and uses of research and development and the direction and uses of services furnished by independent contractors.

Thus, for example when requested by the District Director, the taxpayer shall make available any of its organization charts, manuals, and other writings which relate to the manner in which its gross income arises and to the functions of organizational units, employees, and assets of the taxpayer and arrange for the interview of such of its employees as the District Director deems desirable in order to determine the gross income to which deductions relate. See section 7602 and the regulations thereunder which generally provide for the examination of books and witnesses. See also section 905(b) and the regulations thereunder which require proof of foreign tax credits to the satisfaction of the Secretary or his delegate.

### 3.12.10 26 C.F.R. §1.863-1: Determination of Taxable Income

26 C.F.R. §1.863-1

(c) *Determination of taxable income.* The taxpayer's taxable income from sources within or without the United States will be determined under the rules of Secs. 1.861-8 through 1.861-14T for determining taxable income from sources within the United States. (Emphasis added)

Any argument that 861 has nothing to do with section 61 appears to be quite ridiculous, as §1.861-8(a)(3) displays the same list of items as § 61(a), and § 861 uses the same word "source" as used in both the 16th Amendment and section 61. In review of 1.863-1(c) we can ask the question to the search engine, is there another provision of law that is used for determining taxable or gross income from sources within the U.S.?

### 3.12.11 26 C.F.R. § 1.6661-6 (b): Waiver of Penalty

26 C.F.R. §1.6661-6(b)

(a) *In general.*

The Commissioner may waive all or part of the penalty imposed by section 6661 on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith. The circumstances taken into account in determining whether to waive the penalty are described in paragraph (b) of this section. In addition, paragraph (c) of this section describes circumstances in which the penalty will always be waived.

(b) *Reasonable cause and good faith.*

In making a determination regarding waiver of the penalty under section 6661, the most important factor in all cases not described in paragraph (c) of this section will be the extent of the taxpayer's effort to assess the taxpayer's proper tax liability under the law. *For example*, reliance on a position contained in a proposed regulation would *ordinarily* constitute reasonable cause and good faith. In addition, circumstances that may indicate reasonable cause and good faith include an honest misunderstanding of fact or law that is reasonable in light of the experience, knowledge, and education of the taxpayer. Moreover, a computational or transcriptional error would, in general, indicate reasonable cause and good faith. **Reliance on an information return or on the advice of a professional (such as an appraiser, an attorney, or an accountant) would not necessarily constitute a showing of reasonable cause and good faith. Similarly, reliance on facts that, unknown to the taxpayer, are incorrect would not necessarily constitute a showing of reasonable cause and good faith.** Reliance on an information return, professional advice, or other facts, however, would constitute a showing of reasonable cause and good faith if, under all the circumstances, such reliance was reasonable and the taxpayer acted in good faith. *For example*, reliance on erroneous information, (such as an error relating to the cost of property, the date property was placed in service, or the amount of opening or closing inventory) inadvertently included in data compiled by the various divisions of a multidivisional corporation or in financial books and records prepared by those divisions would, in general, indicate reasonable cause and good faith, provided the corporation had internal controls and procedures, reasonable under the circumstances, that were designed to identify factual errors. Accordingly, waiver of the section 6661 penalty attributable to an understatement caused by such an error would be appropriate. Similarly, a taxpayer's reliance on erroneous information reported on a Form 1099 would indicate reasonable cause and good faith, and waiver would be appropriate, if the taxpayer did not know or have reason to know that the information was incorrect. Generally, a taxpayer would know or have reason to know that the information on a Form 1099 is incorrect only if such information is inconsistent with other information reported to the taxpayer or is inconsistent with the taxpayer's knowledge concerning the amount and rate of return of the payor's obligation. In the case of an understatement that is related to an item on the return of a pass-through entity (as defined in section 1.6661-4(e)), the good faith or lack of good faith of the entity generally will be imputed to the taxpayer that has the understatement. Any good faith imputed to the taxpayer under the preceding sentence, however, may be refuted by other factors indicating lack of good faith on the part of the taxpayer.

1 **3.12.12 26 C.F.R. §31: Employment Taxes and Collection of Income Taxes at the Source**

2 This section of the Treasury Regulations defines the methods, forms, and terms used for implementing employment taxes. It  
 3 is based on 26 U.S.C. §3405. What the code doesn't emphasize anywhere is that this section ONLY APPLIES to the following  
 4 defined entities. Note the definitions from the code sections are in italics, and my comments are in regular font:

5 **Table 3-10: Comparison of Definitions used in C.F.R. Section 31 with other laws**

<i>Term</i>	<i>Place defined</i>	<i>Definition</i>
Employer	26 U.S.C. §3401(c)	<p><i>Employer :</i>  <i>For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that -</i></p> <p><i>(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a)) means the person having control of the payment of such wages, and</i></p> <p><i>(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.</i></p>
	IRS Website ( <a href="http://www.irs.gov/">http://www.irs.gov/</a> ) Publication 15	<p><b>Employee status under common law.</b> Generally, a worker who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See <b>Pub. 5-A, Employer's Supplemental Tax Guide</b>, for more information on how to determine whether an individual providing services is an independent contractor or an employee.</p> <p>Generally, people in business for themselves are not employees. For example, doctors, lawyers, veterinarians, construction contractors, and others in an independent trade in which they offer their services to the public are usually not employees. However, if the business is incorporated, corporate officers who work in the business are employees. If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time.</p>
	26 C.F.R. §31.3401(d)-1	<p>The code below is restricted by the fact that it requires that a person be acting as an "employee" for the employer as defined narrowly by 26CFR31.3401(c)-1 below. This implies that in most cases, the employer is a government entity, which may in some cases be a receivership for an otherwise private entity. Therefore, if I am working for a private concern that has fallen into receivership or control of the government under bankruptcy laws, then I become and "employee" because I am working for a government agency. Otherwise, I am not an employee. You will also note that the definition of Employer below would also appear to be much broader than that found in 26 U.S.C. §3401, which is the regulation from which it derives.</p> <p><i>a) The term employer means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.</i></p> <p><i>(b) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an employer.</i></p>

Term	Place defined	Definition
		<p>(c) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.</p> <p>(d) The term employer embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.</p> <p>(e) The term employer also means (except for the purpose of the definition of wages) any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States).</p> <p>(f) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term employer means (except for the purpose of the definition of wages) the person having such control. For example, where wages, such as certain types of pensions or retired pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the employer.</p> <p>(g) The term employer also means a person making a payment of a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of Sec. 31.3401(a)-1 as if it were wages. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term employer shall mean such other person and not the person actually making the payment. (h) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under section 6051 and Sec. 31.6051- 1. The special definitions of the term employer in paragraphs (e), (f), and (g) of this section are designed solely to meet special or unusual situations. They are not intended as a departure from the basic purpose.</p>
	26 C.F.R. §31.3306(a)-1	<p>Definition of Employer under the FICA, or Federal Unemployment Tax Act. Note that this definition too does not apply to income tax withholding, but only to FICA taxes.</p> <p>(1a) For 1970 and subsequent calendar years. Every person who employs 4 or more employees in employment (within the meaning of section 3306 (c) and (d)) on a total of 20 or more calendar days during a calendar year after 1969, or during the calendar year immediately preceding such a calendar year, each such day being in a different calendar week, is with respect to such year an employer subject to the tax.</p>
	26 C.F.R. §31.3231(a)-1	<p>Defines who are employers under the Railroad Retirement Act ONLY, not under the entirety of the rest of section 31. Therefore, this definition doesn't apply to most people.</p>
Employee	26 U.S.C. §3401(c)	<p>Employee</p> <p>For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.</p>

Term	Place defined	Definition
	26 C.F.R. §31.3401(c)-1	<p>(a) The term employee includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.</p> <p>...</p> <p>(g) The term employee includes every individual who receives a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of Sec. 31.3401(a)-1 as if it were wages.</p> <p>(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 3401(a).</p>
	26 C.F.R. §31.3306(i)-1	<p>This definition once again refers to the Federal Unemployment Tax Act (FICA taxes) only.</p> <p>(a) Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee. (The word "employer" as used in this section only, notwithstanding the provisions of Sec. 31.3306(a)-1, includes a person who employs one or more employees.) ...</p>
	26 C.F.R. §31.3231(b)-1	<p>Defines who are employees under the Railroad Retirement Act ONLY, not under the rest of section 31.</p>
Withholding agent	26 U.S.C. §7701	<p><i>Withholding agent :</i>  The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section <a href="#">1441</a>, 1442, 1443, or 1461.</p> <p>Section 1441 is entitled "Withholding of tax on nonresident aliens". Section 1442 is entitled "Withholding tax on foreign corporations". Section 1443 is entitled "Foreign tax-exempt organizations". Section 1461 is entitled "Liability for withheld tax" and provides that:</p> <p><i>"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."</i></p>
Wages	<p>IRS Website:  <a href="http://www.irs.gov/">http://www.irs.gov/</a>  Pub 15</p>	<p>Wages subject to Federal employment taxes include all pay you give an employee for services performed. The pay may be in cash or in other forms. It includes salaries, vacation allowances, bonuses, commissions, and fringe benefits. It does not matter how you measure or make the payments. Also, compensation paid to a former employee for services performed while still employed is wages subject to employment taxes. See section 6 for a discussion of tips and section 7 for a discussion of supplemental wages. Also see section 15 for exceptions to the general rules for wages. <b>Pub . 5-A</b>, Employer's Supplemental Tax Guide, provides additional information on wages and other compensation, including:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Adoption assistance</li> <li><input checked="" type="checkbox"/> Awards</li> <li><input checked="" type="checkbox"/> Back pay</li> </ul>

Term	Place defined	Definition
		<ul style="list-style-type: none"> <li>☒ Below-market loans</li> <li>☒ Cafeteria plans</li> <li>☒ Deferred compensation</li> <li>☒ Dependent care assistance</li> <li>☒ Educational assistance</li> <li>☒ Employee stock options</li> <li>☒ Group-term life insurance</li> <li>☒ Leave sharing</li> <li>☒ Outplacement services</li> <li>☒ Retirement plans</li> <li>☒ Supplemental unemployment benefits</li> <li>☒ Withholding for idle time</li> </ul>
Withholding authority by "agents"	26 C.F.R. §31.3504-1	<p><i>(a) In general. In the event wages as defined in chapter 21 or 24 of the Internal Revenue Code of 1954, or compensation as defined in chapter 22 of such Code, of an employee or group of employees, employed by one or more employers, is paid by a fiduciary, agent, or other person, or if such fiduciary, agent, or other person has the control, receipt, custody, or disposal of such wages, or compensation, the district director, or director of a service center, may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of such employer or employers under those provisions of the Internal Revenue Code of 1954 and the regulations thereunder which have application, for purposes of the taxes imposed by such chapter or chapters, in respect of such wages or compensation. If the fiduciary, agent, or other person is authorized by the district director, or director of a service center, to perform such acts, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to employers in respect of such acts shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person performs such acts shall remain subject to all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to an employer in respect of such acts. Any application for authorization to perform such acts, signed by such fiduciary, agent, or other person, shall be filed with the district director, or director of a service center, with whom the fiduciary, agent, or other person will, upon approval of such application, file returns in accordance with such authorization.</i></p> <p><i>(b) Prior authorizations continued. An authorization in effect under section 1632 of the Internal Revenue Code of 1939 on December 31, 1954, continues in effect under section 3504 and is subject to the provisions of paragraph (a) of this section.</i></p> <p>Did you notice that this code does NOT say that the district director may "order" the agent to withhold? He can only "authorize such fiduciary, agent, or other person to perform such acts as are required of such employer or employers under those provisions of the Internal Revenue Code of 1954 and the regulations thereunder which have application, for purposes of the taxes imposed by such chapter or chapters, in respect of such wages or compensation". The question arises then: "What if he doesn't want to withhold or the employees don't want him withholding?" The answer is that the agent can't be forced under color of law to withhold according to this.</p>

1 If they put these *unambiguous* definitions from the U.S. Code at the beginning of the section, do you think most people would  
 2 read and heed it? Instead, they put the definitions of "withholding agent" NOT in the C.F.R.'s but deep at the end of the  
 3 U.S.C, where people aren't likely to look at it. Most other titles of the U.S. Code put the definitions at the beginning of the  
 4 title. In implementing the U.S. Code through the C.F.R., you will note that the Treasury department left the definition of  
 5 employee intact but considerably broadened the definition of employer. By what legal authority did the Law Revision  
 6 Counsel of the House of Representatives, who writes and updates the Internal Revenue Code, expand the applicability of the  
 7 Internal Revenue Code by redefining these terms? There is none! The Treasury and the IRS have no constitutional or  
 8 statutory authority to broaden the definition of any term used in the U.S. Code when applying it in the C.F.R.'s. Instead, they  
 9 had to rely on a trick with the definition of the word "include" documented in section 3.9.1.8 as their justification. Basically,  
 10 they had to say: "The U.S. Codes don't define *everything* that is taxable and are not restrictive, and we can add whatever we  
 11 want."

12 It's obvious that the Treasury and the IRS want you to believe that their authority is unlimited and unquestionable, starting  
 13 with how they choose to define the word "includes" in the I.R.C. We believe they simply wanted to have more leverage in  
 14 the use of scare and F.U.D. tactics against employers so they could prevent a Citizen revolt in the process of refusing to sign  
 15 W-4's that authorize the collection of taxes. After all, why would an employee want to argue with their employer (look a gift  
 16 horse in the mouth) and risk their job by dragging their employer into court to litigate the improper application of the tax  
 17 code by their employer and the wrongful taking of taxes. An old Chinese proverb sums this situation up very wisely:

18 *"The mouth that eats does not talk."*

19 Note, however, that the term "employer" at 26 C.F.R. §31.3401(d)-1 in the C.F.R. still depends on and is derived from the  
 20 definition of employee in the U.S. Code, and therefore it can be no more expansive than the original definition of employer  
 21 found in the U.S.C. This kind of devious legal chicanery is the reason why even to this day employers still incorrectly report  
 22 "gross income" in their tax withholdings reported to the IRS, and the IRS wants to keep it that way!.

23 You can read the content of 26 C.F.R. §31 at:

<http://www4.law.cornell.edu/cfr/26p31.htm#start>

### 24 **3.12.13 26 C.F.R. §31.3401(c)-1: Employee**

25 *(c) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers,*  
 26 *auctioneers, and others who follow an independent trade, business, or profession, in which they offer their*  
 27 *services to the public, are not employees.*

28 Now isn't that interesting? You're not an employee after all! So why does your "employer" withhold taxes on you? They  
 29 don't have the legal authority to do it, if you aren't an employee as defined by the Internal Revenue Code!

### 30 **3.13 Treasury Decisions and Orders**

#### 31 **3.13.1 Treasury Delegation of Authority Order 150-37: Always Question Authority!**

32 What is a Treasury Department Delegation of Authority Order (also called a TDO)? In America, we have a system of law  
 33 and order. The People delegate powers to the appropriate branch of government, through the Constitution of the United States,  
 34 and that power is then delegated down to the officer or employee actually exercising the power. Otherwise, there is no  
 35 authority. Without a valid, properly executed, Delegation of Authority Order, applicable to you, anyone with a badge from a  
 36 security guard supply house could steal your property and violate your rights.

37 Billie Murdock of Salt Lake City, a brave female Patriot, has learned to always question authority. She has done a tremendous  
 38 amount of valuable research on Delegation of Authority.

39 Billie received a Summons from the IRS. She went to the interview but before she would provide any information she asked,  
 40 "Before I give you these books and records I would like to see a copy of the Delegation of Authority Order from the Secretary  
 41 of the Treasury that authorized you to summons me with my books and records.

1 The meeting was over almost immediately. The IRS stated that they needed to contact their District Counsel. Their Counsel  
2 advised the IRS to re-issue the summons, without acknowledging the existence of a Delegation of Authority Order.

3 Although there is a legal requirement to maintain all Delegation of Authority Order at the local District IRS office the agents  
4 would not provide Billie with a copy of one. The Commerce Clearinghouse Internal Revenue Manual, Volume 1, states as  
5 follows:

6 *"Each regional and district office and service center should maintain at least one complete and annotated file of*  
7 *all Delegations of Authority(s) [DOA] made to such office and by such office."*

8 "Billie Murdock would not be ignored. After not obtaining a copy of the Delegation of Authority Order from her local office,  
9 she decided to fly directly to the Department of the Treasury in Washington D.C.. Billie knew the number of the alleged  
10 Delegation Order for Summons, which the local IRS would not provide for her, was Treasury Delegation Order No. 150-37  
11 When Billie landed in Washington D.C., she went directly to the Department of the Treasury who sent her to the National  
12 IRS office. She told the clerk, "Hi, I'm here to get a copy of Treasury Delegation Order 150-37." The clerk responded by  
13 saying, "No problem, I'll have it for you in a minute." Twenty five minutes later the same clerk returned with no Delegation  
14 Order and stated, "Mrs. Murdock, I'm authorized to tell you that the Order does exist but I can't give you a copy or tell you  
15 why." Unbelievable but true!

16 Further, this order has never been published in the Federal Register, pursuant to 44 U.S.C. Sec. 1501. While there is no lawful  
17 requirement to publish DOAs for inhabitants of U.S. Territories, all Laws and delegation orders, which are binding upon the  
18 Citizens of the 50 Republic states, must be published in the Federal Register and no such Citizen can be adversely affected  
19 or bound by an unpublished order. The IRS doesn't want Citizens of the 50 Republic states to see the collection of Delegation  
20 Orders because they are only applicable in U.S. Territories and tax treaty countries. They provide absolutely zero authority  
21 in the 50 Republic states!

22 Treasury Department Order 150-42, dated 7/27/56, 21 Fed. Reg. 5852 delegated the following limited authority to the  
23 Commissioner:

24 *"The Commissioner shall, to the extent of the authority vested in him, provide for the administration of United*  
25 *States internal revenue laws in the Panama Canal Zone Puerto Rico the Virgin Islands.~*

26  
27 On Feb. 27, 1986 the Federal Register (51 Fed. Reg. 9571) published the following Treasury Department Order No. 150-01:

28 *"The commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the*  
29 *United States internal revenue laws in the US Territories and insular possessions and other authorized areas of*  
30 *the world." [These areas include countries with which the U.S. has Tax Treaties in force and DO NOT include*  
31 *the 50 Republic states.]*

32 Billie Murdock then returned home and wrote up an Affidavit about her meeting with the Clerk at the National IRS Office.

33 With this ammunition, Billie began to smell fraud and returned to her local IRS office to meet with the same Revenue Agent  
34 and his Group Manager. This time she brought a Court Reporter. Again she asked the loaded question, "Do you have the  
35 authority to summon me here?" The Revenue agent aggressively responded in a threatening manner, "We sure do!" The  
36 Group Manager, however, was cowering and reached over and touched the agent on the shoulder and said, "No we don't."  
37 The agent lost his composure and stuttered, "What do you mean, we don't?" "She's right," the manager interrupted, "We don't  
38 have the authority to summon her...pardon us for interrupting you Mrs. Murdock, this meeting is over."

39 The IRS was still not ready to completely give up and the U.S. Attorney tried his luck at intimidating Mrs. Murdock by filing  
40 a Petition in District Court in Salt Lake City. Billie filed a Response Brief with supporting evidence that no Delegation of  
41 Authority Order, applicable to her, existed. In less than 36 hours the Government withdrew their Petition and closed the case.  
42 Billie had the education and courage to call the bluff of the IRS! :

43  
44 Following is the source for Paul Harvey's nation-wide announcement that filing a 1040 Form was voluntary.

45  
46 Conklin v. U.S.A.  
47 FILING A 1040 IS VOLUNTARY  
48 by William T. Conklin, Denver, Colorado

1 The tenth Circuit Court of Appeals has ruled in Conklin v. U.S.A. (94-1213) that the filing of tax returns is not  
2 compelled or required. Their decision is unpublished.

3 I discovered about fifteen years ago that a mandatory requirement to file a 1040 Return would be unconstitutional to  
4 the extent that it would require a Citizen to waive their Fifth Amendment rights

5 About ten years ago I started offering a \$50,000 reward to anyone who could show me: (1) What statute in the Internal  
6 Revenue Code makes me liable to pay the income tax? (2) How I can file a 1040 Return without waiving my Fifth  
7 Amendment Rights?

8 Although many people have applied for the reward; no one has answered the question. The famous Attorney Melvin  
9 Belli applied for the reward and backed down when I explained the law to him. Another man sued me in Federal  
10 Court for the reward and I won and got costs against him!

11 About eight years ago I raised this issued and filed suit in Federal Court. The judge sat on the case for five years  
12 before ruling against me. He told me in open court that if he ruled in my favor he would overturn the income tax  
13 system.

14 He ruled that the Fifth Amendment does not apply because filing 1040 returns is not required or compelled! (The  
15 opposite of compelled is voluntary.) The Tenth Circuit upheld his decision. I have won four published cases against  
16 the IRS. The cites are:

17 *U.S. v. Church of World Peace, 878 F.2d. 1281*  
18 *Tavery v. United States, 897 F.2d. 1032.*  
19 *Church of World Peace, Inc. v. IRS, 715 F.2d. 492*  
20 *Conklin v. United States, 812 F.2d. 1318*

### 21 **3.13.2 Treasury Decision Number 2313: March 21, 1916**

22 This document was published following the *Brushaber v. Union Pacific Railroad* and was meant to clarify the basis for  
23 assessing income taxes on all individuals. Here are a few excerpted quotes from T.D. 2313 in reference to the Brushaber  
24 decision:

25 *"..it is hereby held that income accruing to nonresident aliens in the form of interest...and dividends ..is subject*  
26 *to the income tax imposed by the act of October 3, 1913. The responsible heads, agents, or representatives of*  
27 *nonresident aliens...shall make a full and complete return of the income therefrom on...Form 1040..."*  
28 *[Treasury Decision 2313]*

29 So there you have it. The Treasury Department stated that you are to file Form 1040 on behalf of your "nonresident alien  
30 principal". So don't forget to do that next April 15th! Of course, since you'll be signing Form 1040 under penalties of perjury  
31 and stating that every material fact is 100% correct to the best of your knowledge, and since the commission of perjury is a  
32 felony that attaches criminal fines and penalties, be sure you really are filling Form 1040 on behalf of your "nonresident alien  
33 principal"!

34 By reading Internal Revenue Code section 871(a) [also called 26 U.S.C. §871(a) ], we see that it imposes a tax of 30% on  
35 the amount received by non-resident aliens from sources within the United States.

36 Code section 871(b) states that the nonresident alien shall be taxable under code section 1, thus authorizing the use of the  
37 charts in section 1 to compute and reduce his tax, so he can get a tax refund from the 30% which is withheld under the  
38 provisions of section 1441.

39 Also, under I.R.C. Section 874(a), the nonresident alien is entitled to the benefit of deductions and credits by filing or having  
40 his agent file, a 1040, as stated in T.D. 2313. Of course, this has nothing to do with a Citizen!

41 If you would like a thorough treatment of the background behind Treasury Decision 2313, see:

- 42 1. [A Detailed Study into the Meaning of the term "United States" found in the Internal Revenue Code](#), Howard Freeman

- 1 1.1. HTML: <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm>  
 2 1.2. PDF: <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.pdf>  
 3 2. Brushaber v. Union Pacific Railroad, 240 U.S. 1 (1916)  
 4 SEDM Exhibit 09.031  
 5 <http://sedm.org/Exhibits/ExhibitIndex.htm>  
 6 3. *Frank R. Brushaber Geneological Records*, SEDM Exhibit #09.034  
 7 <http://sedm.org/Exhibits/ExhibitIndex.htm>

### 8 3.14 supreme Court Cases Related To Income Taxes in the United States

9 *"Dishonest scales are an abomination to the Lord, but a just weight is His delight."*  
 10 *[Prov. 11:1, Bible, NKJV]*

11 *"Judicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our*  
 12 *government of laws with a judicial oligarchy."*  
 13 *[Senator Sam Ervin, during Watergate hearing]*

14 *"When words lose their meaning, people will lose their liberty."*  
 15 *[Confucius, 500 B.C.]*

16 This section contains a summary of the major Supreme Court cases and the conclusions of each. Below is a summary of  
 17 those conclusions:

18 **Table 3-11: Summary of Results of Supreme Court Findings To Date Related to Income Tax**

<i>Subject</i>	<i>Conclusion</i>	<i>Date</i>	<i>Matter</i>
Two United States Jurisdictions	The United States of America is comprised of two separate jurisdictions: 1. The 50 Union states; 2. The federal zone encompassing the District of Columbia, federal possessions and territories that aren't yet states, and lands within the states.	1818	<i>U.S. v. Bevans</i> , 16 U.S. 336 (1818)
Labor as property	Labor is property and it is the most sacred and inviolable of property, because through it, every other type of property is acquired. People (not the government) have a right to determine how then expend their labor in the pursuit of the own happiness.	1883	<i>Butcher's Union Co. v. Crescent City Co.</i> , 111 U.S. 746 (1883)
Jurisdiction of the Internal Revenue Code and the federal courts	The law of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government.	1895	<i>Caha v. United States</i> , 152 U.S. 211 (1895)
Corporate and individual income taxes	Corporate and individual income taxes are illegal and beyond the power of Congress to assess.	1895	<i>Pollock v. Farmers Loan and Trust Company</i> , 157 U.S. 429 (1895)
Direct taxes	Direct taxes bear immediately upon persons, upon the possession and enjoyment of rights; indirect taxes are levied upon the happening of an event as an exchange.	1900	<i>Knowlton v. Moore</i> , 178 U.S. 41 (1900)
Constitutional rights in federal territories	People living in federal territories, such as the District of Columbia, Puerto Rico, the Virgin Islands, and Guam do not have constitutional protections of their rights the way citizens of the United States of America have.	1901	<i>Downes v. Bidwell</i> , 182 U.S. 244 (1901)

<i>Subject</i>	<i>Conclusion</i>	<i>Date</i>	<i>Matter</i>
Fifth Amendment	Individuals have an absolute right to not incriminate themselves under the Fifth Amendment of the U.S. Constitution. Corporations do not.	1906	<i>Hale v. Henkel</i> , 201 U.S. 43 (1906)
Corporate excise taxes	Individuals can be subject to an income (excise) tax on their activities if they depend upon a government granted privilege.	1911	<i>Flint v. Stone Tracy Co.</i> , 220 U.S. 107 (1911)
Privacy of records and right to not submit a tax return	Information appearing on a tax return may NOT be used as evidence in a court to prosecute a citizen if the tax return was submitted under compulsion or in violation of Fifth Amendment constitutional protections	1914	<i>Weeks v. U.S.</i> , 232 U.S. 383 (1914)
Individual income taxes on nonresident alien earnings	Income taxes are excise (indirect) taxes. They are constitutional when imposed on nonresident aliens, who are not citizens. No ruling was made on taxes paid by citizens.	1916	<i>Brushaber v. Union Pacific Railroad Co.</i> , 240 U.S. 1 (1916)
Corporate income taxes	16th Amendment granted no new powers of taxation to Congress. The amendment did not take income taxes out of the category of excise (indirect) taxes to which they belonged, in which case they continued to apply only to corporate income but not individuals.	1916	<i>Stanton v. Baltic Mining Co.</i> , 240 U.S. 103 (1916)
Corporate income taxes on revenues from exportation	Ruled that corporate excise taxes based on income and without apportionment were permitted as per the 16th Amendment.	1918	<i>William E. Peck &amp; Co. v. Lowe</i> , 247 U.S. 165 (1918)
Income taxes on federal employees	Direct taxes on the salaries of federal employees, in this case judges, are not supported by the 16 <sup>th</sup> Amendment and are unconstitutional.	1920	<i>Evens v. Gore</i> , 253 U.S. 245 (1920)
Corporate income taxes	Income is derived from capital...a gain or profit...severed from the capital...nothing else answers the description. This means that income taxes continue to legally apply only to corporate excise, but no individual income, taxes.	1920	<i>Eisner v. Macomber</i> , 252 U.S. 189 (1920)
Congress legislating socialism by regulating benefits provided by employers to their employees	Court ruled that it is beyond the powers of congress and unconstitutional to legislate socialism by compelling employers to provide any measure of benefits to their employees.	1922	<i>Bailey v. Drexel Furniture Co.</i> , 259 U.S. 20 (1922)
Wages not taxable as income	The court ruled that income received for labor as wages is not taxable. Only profits are taxable.	1930	<i>Lucas v. Earl</i> , 281 U.S. 111 (1930)
Mandatory welfare programs for workers	Informs Congress that it has no constitutional authority whatsoever to legislate for the social welfare of the worker. The result was that when Social Security was instituted, it had to be treated as strictly voluntary or a "treaty".	1935	<i>Railroad Retirement Board v. Alton Railroad Co.</i> , 295 U.S. 330 (1935)
Benefit of the doubt in favor of the taxpayer	"In view of other settled rules of statutory construction, which teach that...if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer."	1938	<i>Hassett v. Welch</i> , 303 U.S. 303 (1938)
Definition of the term "United States"	Defines three separate and distinct definitions for the term "United States".	1945	<i>Hooven &amp; Allison Co. v. Evatt</i> , 324 U.S. 652 (1945)

<i>Subject</i>	<i>Conclusion</i>	<i>Date</i>	<i>Matter</i>
Voluntary nature of the income tax system	The U.S. Supreme Court ruled that our income tax system is based on "voluntary assessment and payment, not on distraint [force]".	1960	<i>Flora v. U.S.</i> , 362 U.S. 145 (1960)
Requirement for implementing regulations	"...neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other."	1960	<i>U.S. v. Mersky</i> , 361 U.S. 431 (1960)
Sources of income to be taxed	This U.S. Supreme Court case reveals that the income which is taxed under federal law must come from a "source" as defined under the law, as the law means exactly what is said	1961	<i>James v. United States</i> , 366 U.S. 213, p. 213, 6 L.Ed.2d. 246 (1961)
Waivers of constitutional rights	Waivers of constitutional rights must be voluntary, must be knowingly intelligent acts done with sufficient awareness of the relevant circumstances and consequences.	1970	<i>Brady v. U.S.</i> , 379 U.S. 742 at 748 (1970)
Civil and criminal penalties can only be imposed for violation of regulations promulgated by the Secretary of the Treasury	"...the Act's <b><u>civil and criminal penalties attach only upon violation of the regulation</u></b> promulgated by the Secretary; <b><u>if the Secretary were to do nothing, the Act itself would impose no penalties on anyone</u></b> ...The Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so tested they are valid."	1974	<i>California Bankers Assoc. v. Shultz</i> , 416 U.S. 25, 39 L.Ed.2nd. 812 (1974)
Tax returns are compelled	The information contained in a tax return constitutes the compelled testimony of a witness.	1975	<i>Garner v. United States</i> , 424 U.S. 648 (1976)
5 <sup>th</sup> Amendment right of non-self-incrimination— Documents	This case ruled that the documents in the possession of a taxpayer that are subpoena'd by the government are <i>not</i> privileged or protected under the Fifth Amendment. The Fifth Amendment only applies to "compelled testimonial communications". This case forms the basis for why we say that you are not obligated to admit to the existence of any records if the IRS asks, such that if they subpoena you for nondescript records you have not admitted to having, then you aren't obligated to provide anything at all.	1976	<i>Fisher v. United States</i> , 425 U.S. 391 (1976)
Wages as income	Decided cases have consistently revealed that wages are <i>not</i> income.	1978	<i>Central Illinois Public Service Co. v. United States</i> , 435 U.S. 21 (1978)
5 <sup>th</sup> Amendment right against self-incrimination	The court ruled that act of producing subpoenaed documents would involve testimonial self-incrimination. This implies that the 5 <sup>th</sup> amendment does not necessarily only protect against incriminating testimony, but also applies to incriminating documents such as a tax return. Therefore, the filing of tax returns cannot be compelled.	1985	<i>U.S. v. Doe</i> , 465 U.S. 605 (1984)

Subject	Conclusion	Date	Matter
Due process violation of tax codes	The Supreme Court ruled that citizens who sincerely believe the Internal Revenue Code does not apply to them cannot be convicted of criminal tax violations even if there is no rational basis for their belief. It also allowed criminal defendants accused of tax crimes by the IRS to take the IRS into federal court in fulfillment of their due process rights. Believe it or not, until the Cheek decision, a defendant in a criminal tax trial could not even take the Internal Revenue Code into the courtroom in his own defense!	1991	<i>Cheek v. United States</i> , 498 U.S. 192 (1991)
Sources of income to be taxed	This U.S. Supreme Court case reveals that the income which is taxed under federal law must come from a "source" as defined under the law, as the law means exactly what is said	1992	<i>United States v. Burke</i> , 504 U.S. 229, 119 L.Ed.2d. 34, 112 S.Ct. 1867 (1992)
Federal jurisdiction within states	The Commerce Clause (Article 1, Section 8, Clause 3) of the Constitution is the only valid basis for federal government regulation or jurisdiction within any of the 50 Union states.	1995	<i>U.S. v. Lopez</i> , 514 U.S. 549 (1995)

### 3.14.1 1818: *U.S. v. Bevens*, 16 U.S. 336

This case involved a federal prosecution for a murder committed on board the Warship, Independence, anchored in the harbor of Boston, Massachusetts. The defense complained that only the state had jurisdiction to prosecute and argued that the federal Circuit Courts had no jurisdiction of this crime supposedly committed within the federal government's admiralty jurisdiction. In argument before the Supreme Court, counsel for the United States admitted as follows:

*"The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein,"*  
[3 Wheat., at 350, 351]

In holding that the State of Massachusetts had jurisdiction over the crime, the Court held:

*"What, then, is the extent of jurisdiction which a state possesses?"*

*"We answer, without hesitation, the jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power,"* 3 Wheat., at 386, 387.

*"The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction. ... Congress has power to exercise exclusive jurisdiction over this district, and 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."*

*"It is observable that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in describing the judicial power, the framers of our constitution had not in view any cession of territory; or, which is essentially the same, of general jurisdiction,"* 3 Wheat., at 388.

Thus in *Bevens*, the Court established a principle that federal jurisdiction extends only over the areas wherein it possesses the power of exclusive legislation under Article 1, Section 8, Clause 17 of the U.S. Constitution, and this is a principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. To hold otherwise would destroy the purpose, intent and meaning of the entire U.S. Constitution. This ruling was also significant, because it divides the United States into what we call the "federal zone", which includes the District of Columbia, U.S. Possessions, and Territories on the one hand, and the 50 Union states on the other hand. This issue is very important and explains the definitions of "State" and "United States" found in sections 3.9.1.20-3.9.1.24.

1 When Congress is operating in its exclusive jurisdiction over the District of Columbia, the territories, and enclaves, it is  
 2 important to remember that it has full authority to enact legislation as private acts pertaining to its boundaries, and it is not a  
 3 state of the union of states because it exists solely by virtue of the compact/constitution that created it. The constitution does  
 4 not say that the District of Columbia must guarantee a Republican form of Government to its own subject citizens within its  
 5 territories. (See *Hepburn & Dundas v. Ellzey*, 6 U.S. 445(1805); *Glaeser v. Acacia Mut. Life Ass'n.*, 55 F.Supp., 925 (1944);  
 6 *Long v. District of Columbia*, 820 F.2d. 409 (D.C. Cir. 1987); *Americana of Puerto Rico, Inc. v. Kaplus*, 368 F.2d. 431 (1966),  
 7 among others).

8 *"The idea prevails with some -- indeed, it found expression in arguments at the bar -- that we have in this country*  
 9 *substantially or practically two national governments; one, to be maintained under the Constitution, with all its*  
 10 *restrictions; the other to be maintained by Congress outside and independently of that instrument, by exercising*  
 11 *such powers as other nations of the earth are accustomed to exercise."*  
 12 *[Downes v. Bidwell, 182 U.S. 244 (1901), supra.]*

13 The Constitution provides limited powers to federal government over the state Citizens. The federal government has unlimited  
 14 powers over federal citizens because it is acting outside of the Constitution. Administrative laws are private acts and are not  
 15 applicable to state Citizens. The Internal Revenue Code is administrative law.

### 16 **3.14.2 1883: Butchers' Union Co. v. Crescent City Co., 111 U.S. 746**

17 *"Among these unalienable rights, as proclaimed in that great document [the Declaration of Independence] is the*  
 18 *right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner*  
 19 *not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so*  
 20 *as to give them their highest enjoyment...It has been well said that, THE PROPERTY WHICH EVERY MAN HAS*  
 21 *IN HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE*  
 22 *MOST SACRED AND INVOLABLE..."*  
 23 *[Butchers' Union Co. v. Crescent City Co., 111 U.S. 746 (1884)]*

24 Authors notes: A *privilege* is taxable, a *RIGHT* is not, that's why they had to take off the POLL TAX. A tax on *property* is  
 25 *DIRECT TAX*, and constitutionally *MUST BE APPORTIONED*. The *Corporate Excise Tax* of 1909 was a 2% tax on  
 26 *PROFITS OF CORPORATIONS*. The Supreme Court had, in *Pollock v. Farmers' Loan and Trust*, in 1894, *ruled as*  
 27 *UNCONSTITUTIONAL* the *EXACT SAME KIND OF TAX MOST AMERICANS ARE NOW PAYING!* [A *direct tax* without  
 28 apportionment.] This decision has *NEVER* been overturned!

29 Both BEFORE and AFTER the sixteenth amendment passed, *THE COURTS SAID INCOME WAS CORPORATE PROFIT!*  
 30 The Separation of powers doctrine says only CONGRESS can collect a tax! This is part of the message that the PATRIOTS  
 31 of this country have been trying to tell you for the last 30 years!! The predicted income tax rate of 80-90% early next century  
 32 is *SLAVERY!!* and *IS UNCONSTITUTIONAL!!!!* No one believes us, they think we're a bunch of gun toting, beer drinking  
 33 rednecks!!

### 34 **3.14.3 1894: Caha v. United States, 152 U.S. 211**

35 *"The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have*  
 36 *force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national*  
 37 *government."*  
 38 *[Caha v. United States, 152 U.S. 211 (1894)]*

39 This case established that the Congress has a right to make laws only to those places within its jurisdiction. The only places  
 40 it has exclusive jurisdiction over are:

- 41 1. U.S. territories, such as Puerto Rico, Guam, and the Virgin Islands.
- 42 2. The District of Columbia.

43 This means that they can't write laws that extend into the territorial limits of the states. This issue is very significant when  
 44 we talk about the need to identify "sources" for taxation. A "source" applies a tax to a geographical location. This case also  
 45 explains why there must be a section in the Internal Revenue Code (26 U.S.C. Section 861) that identifies taxable "sources".

### 46 **3.14.4 1895: Pollock v. Farmer's Loan and Trust Company, 157 U.S. 429, 158 U.S. 601**

1 This case was about a man named Charles Pollock, a Citizen of Massachusetts, who owned stock in Farmer's Loan and Trust  
 2 Company. He was upset with the fiduciaries of the company because they were paying DIRECT a tax of 2 percent levied on  
 3 them by the U.S. government, and that reduced his dividends. He thought it was unconstitutional that the U.S. Government  
 4 could assess a direct tax on the corporation, and took the case to court in prevent the U.S. Government from assessing income  
 5 taxes on the corporation. The attorney who challenged the Income Tax Act of 1894 in this lawsuit, Joseph H. Choate, told  
 6 the supreme Court about the income tax in question:

7 *"The act of Congress which we are impugning [challenging as false] before you is Communistic\* in its purposes*  
 8 *and tendencies."*

9 *\*NOTE: A progressive "graduated" tax system is one of the planks of the Communist Manifesto. The American*  
 10 *direct taxing system is based upon "equal apportionment."*

11 Below are excerpts from the judge's findings relative to the law that imposed the tax:

12 *"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general*  
 13 *government of the power of directly taxing persons and property within any state through a majority made up*  
 14 *from the other states. It is true that the effect of requiring direct taxes to be apportioned among the states in*  
 15 *proportion to their population is necessarily that the amount of taxes on the individual [157 U.S. 429, 583]*  
 16 *taxpayer in a state having the taxable subject-matter to a larger extent in proportion to its population than another*  
 17 *state has, would be less than in such other state; but this inequality must be held to have been contemplated, and*  
 18 *was manifestly designed to operate to restrain the exercise of the power of direct taxation to extraordinary*  
 19 *emergencies, and to prevent an attack upon accumulated property by mere force of numbers.*

20 ...

21 *It is the duty of the court in this case simply to determine whether the income tax now before it does or does not*  
 22 *belong to the class of direct taxes, and if it does, to decide the constitutional question which follows . . .*

23 *First. That the law in question, in imposing a tax on the income or rents of real estate, imposes a tax upon the*  
 24 *real estate itself; and in imposing a tax on the interest or other income of bonds or other personal property, held*  
 25 *for the purposes of income or ordinarily yielding income, imposes a tax upon the personal estate itself; that **such***  
 26 ***tax is a direct tax, and void because imposed without regard to the rule of apportionment;** and that by reason*  
 27 *thereof the whole law is invalidated.*

28 *Second. That the law is invalid, because imposing indirect taxes in violation of the constitutional requirement of*  
 29 *uniformity, and therein also in violation of the implied limitation upon taxation that all tax laws must apply*  
 30 *equally, impartially, and uniformly to all similarly situated. Under the second head, it is contended that the rule*  
 31 *of uniformity is violated, in that the law taxes the income of certain corporations, companies, and associations,*  
 32 *no matter how created or organized, at a higher rate than the incomes of individuals or partnerships derived*  
 33 *from precisely similar property or business; in that it exempts from the operation of the act and from the burden*  
 34 *of taxation numerous corporations, companies, and associations having similar property and carrying on similar*  
 35 *business to those expressly taxed; in that it denies to individuals deriving their income from shares in certain*  
 36 *corporations, companies, and associations the benefit of the exemption of \$ 4,000 granted to other persons*  
 37 *interested in similar property and business; in the exemption of \$4,000; in the exemption of building and loan*  
 38 *associations, savings banks, mutual life, fire, marine, and accident insurance companies, existing solely for the*  
 39 *pecuniary profit of their members,-these and other exemptions being alleged to be purely arbitrary and*  
 40 *capricious, justified by no public purpose, and of such magnitude as to invalidate the entire enactment; and in*  
 41 *other particulars. "*

42 *[Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895)]*

43 The supreme Court opinion written by Justice Field, for this historic decision, concluded with the following extremely  
 44 prophetic words:

45 *"Here I close my opinion. I could not say less in view of questions of such gravity that they go down to the **very***  
 46 ***foundations of the government.** If the provisions of the Constitution can be set aside by an act of Congress,*  
 47 *where is the course of usurpation to end?*

48 *The present **assault upon capital** is but the beginning. **It will be but the stepping stone to others larger and more***  
 49 ***sweeping,** until our political contest will become war of the poor against the rich; a war of growing intensity and*  
 50 *bitterness. "*

51 This case was significant because it eliminated the U.S. Government's right to assess DIRECT corporate and individual taxes  
 52 based on rents, real estate, or incomes. In the *Brushaber v. Union Pacific R.R.*, 240 U.S. 1 (1916), the Supreme Court analyzed  
 53 the findings in this case, and stated:

Moreover in addition the Conclusion reached in the Pollock Case did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary **recognized the fact that taxation on income was 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.

### 3.14.5 1900: Knowlton v. Moore, 178 U.S. 41

The U.S. Supreme Court in Knowlton v. Moore ruled that:

*“Direct taxes bear immediately upon persons, upon the possession and enjoyment of rights; indirect taxes are levied upon the happening of an event as an exchange.”*  
[Knowlton v. Moore, 178 U.S. 41 (1900)]

### 3.14.6 1901: Downes v. Bidwell, 182 U.S. 244

In 1901 there was a case that came up in front of the Supreme Court. It is called *Downes v. Bidwell, 182 U.S. 244*. It was a case about exports from Puerto Rico, which was a territory, and part of the area congress had exclusive legislative authority over. The Court said:

*“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)]

Note that they are not talking here about Constitutional protections for the *land*. The Constitution protects PEOPLE! This was confirmed by another case called *Hooven v. Evatt, 324 U.S. 674*.

SO, IF YOU LIVE IN THE "UNITED STATES", OR ARE A "citizen" OF THE "UNITED STATES" AND A “resident” (by election/choice or by actual presence), THE CONSTITUTION AND BILL OF RIGHTS DO NOT APPLY TO YOU! The outcome of this case is precisely the reason why the federal government has no jurisdiction over employers to force them to tax people they are paying wages to in the United States of America (more specifically, the District of Columbia or Puerto Rico, but *not* the 50 Union states). That is where the requirements listed in 26 U.S.C. §861 come from, which specify that the only thing that qualifies as "gross income" from a taxable source is foreign income from a taxable “source” indicated in Part I of 26 C.F.R. or income from the District of Columbia, Puerto Rico, and other parts of the “federal zone”. Keep in mind that the 50 Union states are also considered “foreign” with respect to the U.S. Government, because they are not part of the same political unit as the federal unit.

You might be tempted to think at this point:

*“Well, it sounds from the above case like there is some kind of federal conspiracy here to deprive people of their rights!”*

Some of that may be true, but there may actually also be legitimate and good reasons for not applying constitutional protections to territories and possessions of the United States and other parts of the “federal zone”. Let’s list a few of these reasons here:

1. The United States is responsible for military action against other countries and our military. If they win a war and take over some territory, then that area stays a territory until they elect to be a new “State”, just like Hawaii and Alaska did.
2. Before an area becomes a U.S. territory or possession, it was a foreign country. Chances are good that when it was a foreign country, the citizens used to have their own laws and culture, and that culture may neither respect nor be used to the constitutional protections we have in the United States. The citizens may revolt if we try to impose our full legal system upon them. Therefore, territories and possessions can be and often are under martial or military rule. Martial law cannot be maintained unless constitutional protections are suspended, because there is anarchy and a state of emergency that needs to be eliminated and prevented.
3. Most federal possessions and territories are actually military reservations and bases. The Uniform Code of Military Justice (UCMJ) applies on these military reservations and bases. If you read it, you will find out that the members of our military who are subject to it have to surrender some of their constitutional rights. Therefore, it would be impossible to impose constitutional protections on such areas because it would undermine good order and discipline in our military!
4. The great irony of our military is that our servicemen take a pledge or oath to “support and defend the Constitution from all enemies, foreign and domestic”, and yet these very same people don’t have constitutional protections for themselves while they are in the military! One of the most important constitutional protections they lose the right to not pay direct income taxes, which are not allowed under Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4 of the Constitution!

You can read this case for yourself at:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=case&court=us&vol=182&page=244>

### 3.14.7 1906: Hale v. Henkel, 201 U.S. 43

This case addressed the distinction between individuals and corporations as it pertains to the Fifth Amendment. It said that corporations and other legal fictions do not have Fifth Amendment rights to not incriminate themselves but individuals do:

*“...we are of the opinion that there is a clear distinction in this particular between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.*

*Upon the other hand, the corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges. “*  
[Hale v. Henkel, 201 U.S. 43 (1906)]

### 3.14.8 1911: Flint v. Stone Tracy Co., 220 U.S. 107

The U.S. Supreme Court in Flint vs. Stone Tracy Co., defined excises as:

*“Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon licenses to pursue certain occupations and upon corporate privileges...the requirement to pay such taxes involves the exercise of [220 U.S. 107, 152] privileges, and the element of absolute and unavoidable demand is lacking...Conceding the power of Congress to tax the business activities of private corporations... the tax must be measured by some standard...It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the right to tax a legitimate subject of taxation as an exercise of a franchise or privilege,*

1           it is no objection that the measure of taxation is found in the income produced in part from property which of  
2           itself considered is nontaxable."  
3           [*Flint v. Stone Tracy Co.*, 220 U.S. 107 (1911)]

4 Individuals can be subject to an income (excise) tax on their activities if they depend upon a government granted privilege.  
5 So where are the privileges you are in receipt of?

6 You can read about this case yourself at the following location on the web:

7 <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=220&invol=107>

### 8 3.14.9 1914: *Weeks v. U.S.*, 232 U.S. 383

9 This case is very significant because the supreme Court ruled that illegally obtained evidence may not be used or admitted in  
10 a public trial, as it would violate Fourth Amendment privacy protections. Defendant Weeks was selling lottery tickets by  
11 mail. Police arrested him at his workplace and simultaneously illegally entered his home without a warrant to search for and  
12 seize evidence, which was then used to convict him. He appealed and reversed his conviction. Here is what the court said:

13           *The effect of the 4th Amendment is to put the courts [232 U.S. 383, 392] of the United States and Federal*  
14           *officials, in the exercise of their power and authority, under limitations and restraints as to the exercise of such*  
15           *power and authority, and to forever secure the people, their persons, houses, papers, and effects, against all*  
16           *unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of*  
17           *crime or not, and the duty of giving to it force and effect is obligatory upon all intrusted under our Federal system*  
18           *with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain*  
19           *conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting*  
20           *accused persons to unwarranted practices destructive of rights secured by the Federal Constitution, should find*  
21           *no sanction in the judgments of the courts, which are charged at all times with the support of the Constitution,*  
22           *and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights.*

23 [...]

24           *The case in the aspect in which we are dealing with it involves the right of the court in a criminal prosecution to*  
25           *retain for the purposes of evidence the letters and correspondence of the accused, seized in his house in his*  
26           *absence and without his authority, by a United States marshal holding no warrant for his arrest and none for the*  
27           *search of his premises. The accused, without awaiting his trial, made timely application to the court for an order*  
28           *for the return of these letters, as well for other property. This application was denied, the letters retained and put*  
29           *in evidence, after a further application at the beginning of the trial, both applications asserting the rights of the*  
30           *accused under the 4th and 5th Amendments to the Constitution. **If letters and private documents***  
31           ***can thus be seized and held and used in evidence against a citizen accused***  
32           ***of an offense, the protection of the 4th Amendment, declaring his right to***  
33           ***be secure against such searches and seizures, is of no value, and, so far***  
34           ***as those thus placed are concerned, might as well be stricken from the***  
35           ***Constitution.** *The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy**  
36           *as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and*  
37           *suffering which have resulted in their embodiment in the fundamental law of the land. The United States marshal*  
38           *could only have invaded the house of the accused when armed with a warrant issued as required by the*  
39           *Constitution, upon sworn information, and describing with reasonable particularity the thing for which the search*  
40           *was to be made. **Instead, he acted without sanction of law, doubtless prompted***  
41           ***by the desire to bring further proof to the aid of the government, and***  
42           ***under color of his office undertook to make a seizure of private papers in***  
43           ***direct violation of the constitutional prohibition against such action.***  
44           ***Under such circumstances, without sworn information and particular***  
45           ***description, not even an order of court would [232 U.S. 383, 394] have***  
46           ***justified such procedure; much less was it within the authority of the***  
47           ***United States marshal to thus invade the house and privacy of the***  
48           ***accused.** In *Adams v. New York*, 192 U.S. 585, 48 L.Ed. 575, 24 Sup.Ct.Rep. 372, this court said that the 4th*  
49           *Amendment was intended to secure the citizen in person and property against unlawful invasion of the sanctity of*  
50           *his home by officers of the law, acting under legislative or judicial sanction. This protection is equally extended*  
51           *to the action of the government and officers of the law acting under it. *Boyd Case*, 116 U.S. 616, 29 L.Ed. 746, 6*

1 *Sup.Ct.Rep. 524. To sanction such proceedings would be to affirm by judicial decision a manifest neglect, if not*  
 2 *an open defiance, of the prohibitions of the Constitution, intended for the protection of the people against such*  
 3 *unauthorized action.*

4 *[Emphasis added]*

5 *[Weeks v. U.S., 232 U.S. 383 (1914)]*

6 This case is significant because coercing Americans to submit self-incriminating tax returns is a violation of their rights, and  
 7 using these returns as evidence in court to prosecute individuals is a further violation of their rights. Therefore, the IRS and  
 8 the Department of Justice are *not* authorized by the precedent established in the above case, to use tax returns or any of the  
 9 information on them to prosecute tax payers who have provided 1040 forms *involuntarily*. That means, that provided that  
 10 you put the phrase somewhere on your tax return “Submitted involuntarily and under coercion”, then you are protecting  
 11 yourself from anything on the tax return being used against you, even if you sign it as required. Section 2.4.9 of the  
 12 *Sovereignty Forms and Instructions Manual*, Form #10.005 discusses how to use this case to create, in effect, a Mexican  
 13 standoff with the IRS in the submission of income tax returns. This technique is also used in section 4.5.4.15 of the  
 14 *Sovereignty Forms and Instructions Manual*, Form #10.005 entitled “Submit IRS Form 4868 Annually by 15AUG If You  
 15 Aren’t Filing”. It’s a very effective weapon against the IRS.

16 You can read about this case yourself at the following location on the web:

17 <http://case.law.lp.findlaw.com/scripts/getcase.pl?navby=c&court=us&vol=232&page=383>

### 18 **3.14.10 1916: Brushaber vs. Union Pacific Railroad, 240 U.S. 1**

19 This case is one of the most frequently cited cases by the U.S. government in supporting its position that Subtitle A income  
 20 taxes are constitutional. It occurred just after the passage of the Sixteenth Amendment in 1916 and became a popular case  
 21 for the government to cite because it is written in such a confusing way. There is also a large amount of misinformation  
 22 about this case promoted by the patriot community that we would like to eliminate. Because of this fact, we will spend an  
 23 unusual degree of attention analyzing the case to remove all doubt about its true significance.

24 The Brushaber case was about an American born in the USA, Frank Brushaber, who lived in New York in the Borough of  
 25 Brooklyn and who claimed to be a citizen of the State of New York but never claimed to be a STATUTORY “U.S.\*\* citizen”  
 26 under 8 U.S.C. §1401, which made him a “nonresident alien” for all intents and purposes. You can read his Birth records  
 27 below:

28 Frank R. Brushaber Geneological Records, SEDM Exhibit #09.034

29 <https://sedm.org/Exhibits/EX09.034.pdf>

30 Mr. Brushaber owned stock in the Union Pacific Railroad, a corporation chartered in the federal Territory of Utah before it  
 31 became a State. As a territory, Utah was part of the federal United States, and as such, was a “domestic corporation” or  
 32 “federal corporation” at the time it was formed. Mr. Brushaber filed suit in federal District Court in New York to enjoin the  
 33 Union Pacific Railroad from *volunteering* to pay federal income tax on its profits because he didn’t want his stock dividends  
 34 correspondingly reduced as a result of the tax. Note that the issue was not him personally paying income taxes on the stock,  
 but the reduction of his dividends by the amount of taxes the corporation insisted on *volunteering* to pay prior to distributing  
 the remaining profits to its shareholders.

35 Justice Edward D. White was the author of the opinion of the court in this case. This was the same justice who wrote the  
 36 *dissenting opinion* in the Pollock Decision back in 1895, which incidentally declared the income tax unconstitutional. It was  
 37 clear then, that he had an axe to grind and wanted to reverse the damage done by the Pollock decision. You might want to  
 38 go back and review *Pollock v. Farmer's Loan and Trust Company*, [157 U.S. 429](#), [158 U.S. 601](#) (1895) again to refresh your  
 39 memory on this monumental case. In the Brushaber case, it would appear that Justice White’s method for reversing the  
 40 damage done by the Pollock decision was to obfuscate the issues by writing a very confusing opinion. The Brushaber decision  
 41 is, without a doubt, one of the most confusing and difficult Supreme Court decisions of all to read and understand, and this  
 42 is no accident, we believe.

43 The Brushaber decision ruled that the 16th Amendment did not amend or change the U.S. Constitution. It decided that the  
 44 federal corporation could not be stopped from *volunteering* to pay the federal income tax, even though this damaged the  
 45 interests of its stockholders by reducing their dividends. But don’t take our word for it. Here is what the U.S. Supreme Court,  
 46 in [Brushaber v. Union Pacific Railroad](#), said in the majority opinion:

**The Great IRS Hoax: Why We Don't Owe Income Tax, version 4.54**

**TOP SECRET: For Official Treasury/IRS Use Only (FOUO)**

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1 "...the proposition and the contentions under [the 16th Amendment]...would cause one provision of the  
2 Constitution to destroy another;

3 That is, they would result in bringing the provisions of the Amendment exempting a direct tax from apportionment  
4 into irreconcilable conflict with the general requirement that all direct taxes be apportioned;

5 This result, instead of simplifying the situation and making clear the limitations of the taxing power, which  
6 obviously the Amendment must have intended to accomplish, would create radical and destructive changes in our  
7 constitutional system and multiply confusion...

8 ...Moreover in addition the Conclusion reached in the Pollock Case did not in any degree involve holding that  
9 income taxes generically and necessarily came within the class of direct taxes on property, but on the contrary  
10 recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and  
11 until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to  
12 apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form  
13 and consider substance alone and hence subject the tax to the regulation as to apportionment which otherwise as  
14 an excise would not apply to it.

15 ...the Amendment demonstrates that no such purpose was intended and on the contrary shows that it was drawn  
16 with the object of maintaining the limitations of the Constitution and harmonizing their operation."

17 ...the [16<sup>th</sup>] Amendment contains nothing repudiating or challenging the ruling in the **Pollock** Case that the word  
18 direct had a broader significance since it embraced also taxes levied directly on personal property because of its  
19 ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the  
20 Constitution -- a condition which clearly demonstrates that **the purpose was not to change the existing**  
21 **interpretation except to the extent necessary to accomplish the result intended, that is, the prevention of the**  
22 **resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be**  
23 **a direct tax on the source itself** and thereby to take an income tax out of the class of excises, duties and imposts  
24 and place it in the class of direct taxes...

25 Indeed in the light of the history which we have given and of the decision in the **Pollock** Case and the ground  
26 upon which the ruling in that case was based, there is no escape from the Conclusion that **the Amendment was**  
27 **drawn for the purpose of doing away for the future with the principle upon which the Pollock Case was decided,**  
28 **that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the**  
29 **taxed income upon which it directly operated, but by taking into view the burden which resulted on the property**  
30 **from which the income was derived, since in express terms the Amendment provides that income taxes, from**  
31 **whatever source the income may be derived, shall not be subject to the regulation of apportionment...**  
32 [*Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1 (1916)]

33 And it further stated that taxes on income had been "sustained as excises in the past." The ruling established that income tax  
34 is constitutional as an excise tax on federal corporations, but not as a direct tax. The measure of whether it is a direct or an  
35 indirect/excise tax is determined by the burden the tax on income places on the property that is its object. Who or what then  
36 is subject to an excise tax? In most cases it is usually corporations involved in foreign (outside the country) commerce. You  
37 can see that by rereading section 3.8.11.1, which talks about the legislative intent of the Sixteenth Amendment as described  
38 by President Taft in his speech to Congress on June 16, 1909.

39 The IRS relies on the Brushaber decision to prove the constitutionality of the income tax on natural persons, but ignores the  
40 Court's ruling in that case that the income tax is an excise tax and that the "person" paying the tax in this case was a federal  
41 corporation rather than a natural person. The government and the IRS like to cite this case because the case was written in  
42 an especially confusing way.

43 In the *Brushaber* decision the U.S. Supreme Court ruled that a federal corporation may *volunteer* to pay the income tax on  
44 its profits, even though its stock dividends paid to nonresident alien stockholders living outside the federal zone were  
45 correspondingly reduced by the amount of income tax. Shortly after the ruling in this case, the U.S. department of the  
46 Treasury issued Treasury Decision 2313 interpreting this case. For those of you who have trouble interpreting the impact of  
47 this case, you can read the clear language of this decision below:

48 Treasury Decision Under Internal Revenue Laws of the United States  
49 Vol. 18 January-December 1916  
50 W. G. McAdoo  
51 Secretary of the Treasury  
52 Washington Government Printing Office 1917  
53 T.D. 2313 Income Tax  
54

1 Taxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens,  
2 and the liabilities of nonresident aliens under section 2 of the act of October 3, 1913.

3  
4 Treasury Department  
5 Office of Commissioner of Internal Revenue  
6 Washington, D.C., March 21, 1916

7  
8 To collectors of internal revenue:

9  
10 **Under the decision of the Supreme Court of the United States in the case of Brushaber v. Union Pacific Railway**  
11 **[sic] Co., decided January 24, 1916, it is hereby held that income accruing to nonresident aliens in the form of**  
12 **interest from the bonds and dividends on the stock of domestic corporations is subject to the income tax imposed**  
13 **by the act of October 3, 1913.**

14  
15 Nonresident aliens are not entitled to the specific exemption designated in paragraph C of the income-tax law,  
16 but are liable for the normal and additional tax upon the entire net income "from all property owned, and of every  
17 business, trade, or profession carried on in the [federal] United States," computed upon the basis prescribed in  
18 the law.

19  
20 The responsible heads, agents, or representatives of nonresident aliens, who are in charge of the property owned  
21 or business carried on within the [federal] United States, shall make a full and complete return of the income  
22 therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the income  
23 received by them in behalf of their nonresident alien principals.

24  
25 The person, firm, company, copartnership, corporation, joint-stock company, or association, and insurance  
26 company in the [federal] United States, citizen or resident alien, in whatever capacity acting, having the control,  
27 receipt, disposal, or payment of fixed or determinable annual or periodic gains, profits, and income of whatever  
28 kind, to a nonresident alien, under any contract or otherwise, which payment shall represent income of a  
29 nonresident alien from the exercise of any trade or profession<sup>62</sup> within the [federal] United States, shall deduct  
30 and withhold from such annual or periodic gains, profits, and income, regardless of amount, and pay to the officer  
31 of the United States Government authorized to receive the same such sum as will be sufficient to pay the normal  
32 tax of 1 per cent imposed by law, and shall make an annual return on Form 1042.

33  
34 The normal tax shall be withheld at the source from income accrued to nonresident aliens from corporate  
35 obligations and shall be returned and paid to the Government by debtor corporations and withholding agents as  
36 in the case of citizens and resident aliens, but without benefit of the specific exemption designated in paragraph  
37 C of the law.

38  
39 Form 1008, revised, claiming the benefit of such deductions as may be applicable to income arising within the  
40 [federal] United States and for refund of excess tax withheld, as provided by paragraphs B and P of the income-  
41 tax law, may be filed by nonresident aliens, their agents or representatives, with the debtor corporation,  
42 withholding agent, or collector of internal revenue for the district in which the withholding return is required to  
43 be made.

44  
45 That part of paragraph E of the law which provides that "if such person...is absent from the United States...the  
46 return and application may be made for him or her by the person required to withhold and pay the tax..." is held  
47 to be applicable to the return and application on Form 1008, revised, of nonresident aliens.

48  
49 A fiduciary acting in the capacity of trustee, executor, or administrator, when there is only one beneficiary and  
50 that beneficiary a nonresident alien, shall render a return on Form 1040, revised; but when there are two or  
51 more beneficiaries, one or all of whom are nonresident aliens, the fiduciary shall render a return on Form 1041,  
52 revised, and a personal return on Form 1040, revised, for each nonresident alien beneficiary.

53  
54 The liability, under the provisions of the law, to render personal returns, on or before March 1 next succeeding  
55 the tax year, of annual net income accrued to them from sources within the United States during the preceding  
56 calendar year, attaches to nonresident aliens as in the case of returns required from citizens and resident  
57 aliens. Therefore, a return on Form 1040, revised, is required except in cases where the total tax liability has  
58 been or is to be satisfied at the source by withholding or has been or is to be satisfied by personal return on Form  
59 1040, revised, rendered in their behalf. Returns shall be rendered to the collector of internal revenue for the  
60 district in which a nonresident alien carries on his principal business within the United States or, in the absence  
61 of a principal business within the United States and in all cases of doubt, the collector of internal revenue at  
62 Baltimore, Md., in whose district Washington is situated.

63 Nonresident aliens are held to be subject to the liabilities and requirements of all administrative, special, and  
64 general provisions of law in relation to the assessment, remission, collection, and refund of the income tax  
65 imposed by the act of October 3, 1913, and collectors of internal revenue will make collection of the tax by  
66 distraint, garnishment, execution, or other appropriate process provided by law.

<sup>62</sup> See the definition of "trade or business" found in 26 U.S.C. §7701(a)(26) found in section 3.9.1.23, which indicates that "trade or business" are synonymous with holding of a political office in the federal United States.

1 So much of T.D. 1976 as relates to ownership certificate 1004, T.D. 1977 (certificate Form 1060), 1988  
 2 (certificate Form 1060), T.D. 2017 (nontaxability of interest from bonds and dividends on stock), T.D. 2030  
 3 (certificate Form 1071), T.D. 2162 (nontaxability of interest from bonds and dividends on stock) and all rulings  
 4 heretofore made which are in conflict herewith are hereby superseded and repealed.  
 5 This decision will be held effective as of January 1, 1916.

6  
 7 W. H. Osborn  
 8 Commissioner of Internal Revenue

9  
 10 Approved, March 30, 1916:  
 11 Byron R. Newton,  
 12 Acting Secretary of the Treasury

13 Notice that Treasury Decision 2313 explained that the *Brushaber* decision ruled the tax to be constitutional on receipts of  
 14 nonresident aliens only who were involved in a “trade or profession” in the United States and that the taxes must be declared  
 15 on a 1040 form? It is crucial to understand the meaning of “trade or profession”, which we describe in section 3.9.1.23 to  
 16 mean the holding of a public office in the *federal* United States. In effect what the Treasury was saying above is that the only  
 17 persons who complete the 1040 form are those who have elected to have their income treated as effectively connected with  
 18 a “trade or business” in the federal United States, which means these people elected to be treated as elected or appointed U.S.  
 19 officials for U.S. tax purposes. This means at some point that these persons filed a 1040 form and made an election under 26  
 20 U.S.C. §6013(g) and never bothered to revoke that election. It is extremely important that they revoke the election under  
 21 that section to eliminate the taxability of this income.

22 Another important historical note about the *Brushaber* case was that the tax Act of 1913 contained a section creating a duty  
 23 or liability to pay the income tax which was later removed starting with the 1954 code. Therefore the above TD 2313 could  
 24 talk about the liability to withhold taxes on income “effectively connected with a trade or business” in the [federal] United  
 25 States, which was equivalent to saying that those who had volunteered to pay the tax by making the election under 26 U.S.C.  
 26 §6013(g) must include income from federal corporations. Notice that the court never bothered to explain whether or not  
 27 Frank *Brushaber* had made such an election, and if they had they would have given away the government’s biggest secret.  
 28 Based on the outcome of the case, however, we assume that *Brushaber* must have made the election..

29 We must remember that because of later Supreme Court Rulings, most notably *Stanton v. Baltic Mining*, 240 U.S. 103 (1916),  
 30 the Sixteenth Amendment was ruled to be irrelevant and gave no new taxing powers to the U.S. government.

31 *“..by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power*  
 32 *of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by*  
 33 *Congress from the beginning from being taken out of the category of indirect taxation to which it inherently*  
 34 *belonged and being placed in the category of direct taxation subject to apportionment by a consideration of the*  
 35 *sources from which the income was derived, that is by testing the tax not by what it was -- a tax on income, but*  
 36 *by a mistaken theory deduced from the origin or source of the income taxed. ”*  
 37 *[Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]*

38 For the average American the *Brushaber* case should be, beyond contention, the most momentous, and consequential Supreme  
 39 Court case ever tried...together, of course, with the beautifully lucid TD 2313, which implements it. For, they nail down two  
 40 major points: the unambiguous and unarguable definition of the ‘United States,’ and the income tax obligations of most  
 41 Americans—due to their relationship to this particular ‘United States’—namely, NONE. And by "NONE" we mean none  
 42 that are LAWFUL. Yes, people erroneously fill out forms misrepresenting their status as a government public officer called  
 43 a "taxpayer", "citizen", or "resident" engaged within the "United States" corporation and not the geographical United States  
 44 defined in 26 U.S.C. §7701(a)(9) and (a)(10), but that does not make their behavior or the alleged relationship it creates to  
 45 the national government LAWFUL. An unlawful act is no act at all, in fact, as far as government goes. Both 4 U.S.C. §72  
 46 and the License Tax Cases confirm that Congress cannot establish taxable offices within the states, and that Congress has  
 47 therefore never "expressly authorized" such offices in the GEOGRAPHICAL states of the Union. To do so would be an  
 48 unconstitutional invasion in violation of Article 4, Section 4, in fact. A government established EXCLUSIVELY to protect  
 49 private property is operating outside its charter to make a profitable business out of alienating rights that are supposed to be  
 50 inalienable, or in "invading the states with swarms of officers" mentioned in the Declaration of Independence to raise revenue  
 51 not expressly authorized and even forbidden.

52 It seems almost beyond belief that these two precious documents were ignored by the American taxpayer, at the time. Reading  
 53 them today, it is indeed unfathomable that they did not become a watershed event, completely precluding the events that have  
 54 ensued. As it happened, however, not much happened until over half a century later. But, since then, many thousands of  
 55 previous taxpayers have elected out of the system. We mention in section 5.3.4 that the Internal Revenue Code permits this,

at [26 U.S.C. §6013](#) (g) **Election to treat nonresident alien individual as resident of the United States** (4) **Termination of election (A) Revocation by taxpayers**, which allows a nonresident alien to re-establish his/her previous status (one time only—see subsection 5), after having knowingly or unknowingly elected to "**be treated as a resident of the United States.**" (6013(g)(1).) In other words, this is an escape hatch to get out of the system that one almost always inadvertently entered, when filing his/her first Form 1040 in order to get a refund, at the age of 14. One thereby declared oneself a resident of the District United States, as well as a U.S. citizen, for tax purposes. But, Section [6013](#) allows one to revoke this uninformed choice. I won't go into why such relief must be written into statutory law, but believe me, they wouldn't do it if they didn't need to.

You can read about this case yourself at the following location on the web:

<https://caselaw.findlaw.com/us-supreme-court/240/1.html>

Subsequent Supreme Court decisions that referenced this case interpreted it as follows, quoting from *William E. Peck v. Lowe*, [247 U.S. 165](#) (1918):

*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, but merely removes all occasion, which otherwise might exist, for an apportionment among the States of taxes laid on income, whether it be derived from one source or another. Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, 17-19; Stanton v. Baltic Mining Co., 240 U.S. 103, 112-113. [William E. Peck v. Lowe, [247 U.S. 165](#) (1918)]*

### 3.14.11 1916: *Stanton v. Baltic Mining*, 240 U.S. 103

The Supreme Court stated, in referring to the previous case of *Brushaber v. Union Pacific R.R.* (240 U.S. 1):

*"..by the previous ruling it was settled that the provisions of the Sixteenth Amendment conferred no new power of taxation but simply prohibited the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged and being placed in the category of direct taxation subject to apportionment by a consideration of the sources from which the income was derived, that is by testing the tax not by what it was -- a tax on income, but by a mistaken theory deduced from the origin or source of the income taxed."*  
[*Stanton v. Baltic Mining Co.*, 240 U.S. 103 (1916)]

You can read about this case yourself at the following location on the web:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=240&invol=103>

### 3.14.12 1918: *Peck v. Lowe*, 247 U.S. 165

This was an action to recover a tax paid under protest and alleged to have been imposed contrary to the constitutional [247 U.S. 165, 172] provision (article 1, 9, cl. 5) that 'no tax or duty shall be laid on articles exported from any state.' The judgment below was for the defendant. 234 Fed. 125.

*The plaintiff is a domestic corporation chiefly engaged in buying goods in the several states, shipping them to foreign countries and there selling them. In 1914 its net income from this business was \$30,173.66, and from other sources \$12,436.24. An income tax for that year, computed on the aggregate of these sums, was assessed against it and paid under compulsion. It is conceded that so much of the tax as was based on the income from other sources was valid, and the controversy is over so much of it as was attributable to the income from shipping goods to foreign countries and there selling them.*

*The tax was levied under the Act of October 3, 1913, c. 16, 11, 38 Stat. 166, 172, which provided for annually subjecting every domestic corporation to the payment of a tax of a specified per centum of its 'entire net income arising or accruing from all sources during the preceding calendar year.' Certain fraternal and other corporations, as also income from certain enumerated sources, were specifically excepted, but none of the exceptions included the plaintiff or any part of its income. So, tested merely by the terms of the act, the tax collected from the plaintiff was rightly computed on its total net income. But as the act obviously could not impose a tax forbidden by the Constitution, we proceed to consider whether the tax, or rather the part in question, was forbidden by the constitutional provision on which the plaintiff relies.*

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, but merely removes all occasion, which otherwise might exist, for an apportionment among the states of taxes [247 U.S. 165, 173] laid on income, whether it be derived from one source or another. *Brushaber v. Union Pacific R. R. Co.*, 240 U.S. 1, 17-19, 36 Sup.Ct. 236, Ann. Cas. 1917B, 713, L.R.A. 1917D, 414; *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 112-113, 36 Sup.Ct. 278.  
[*William E. Peck & Co. v. Lowe*, 247 U.S. 165 (1918)]

The judgment reaffirmed in effect that taxes on corporate income were OK, but didn't rule on the issue of income taxes on individuals.

### 3.14.13 1920: Evans v. Gore, 253 U.S. 245

In this case, the Supreme Court addressed the issue of whether a tax on salary was authorized:

"After further consideration, we adhere to that view and accordingly hold that the Sixteenth Amendment does not authorize or support the tax in question. " [A direct tax on salary income of a federal judge]  
[*Evans v. Gore*, 253 U.S. 245 (1920)]

This case has a very thorough treatment of the 16th Amendment taxing issues, and discusses nearly all of the issues critical to the income tax, and by the way, fully supports the entire position advocated in this document with regards to the 26 U.S.C. §861 issues and taxable source issues.

This case was overturned in *O'Malley v. Woodrough*, 307 U.S. 277 (1939). However, the supreme court in that case declined to address whether the tax on income of federal judges was a "direct" or an "indirect" tax, and therefore skirted the issue of whether it could or should be included in "gross income". Instead, by fiat, they simply said without any real legal analysis of facts, that the tax was constitutional. This, of course was a cop-out and there was a long dissenting opinion that advocated a more rational view that is more consistent with this document.

### 3.14.14 1920: Eisner v. Macomber, 252 U.S. 189

The court stated in the case *Eisner v. Macomber* that:

*The Sixteenth Amendment must be construed in connection with the taxing clauses of the original Constitution and the effect attributed to them before the amendment was adopted. In Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601, 15 Sup.Ct. 912, under the Act of August 27, 1894 (28 Stat. 509, 553, c. 349, 27), it was held that taxes upon rents and profits of real estate and upon returns from investments of personal property were in effect direct taxes upon the property from which such income arose, imposed by reason of ownership; and that Congress could not impose such taxes without apportioning them among the states according to population, as required by article 1, 2, cl. 3, and section 9, cl. 4, of the original Constitution.*

*Afterwards, and evidently in recognition of the limitation upon the taxing power of Congress thus determined, the Sixteenth Amendment was adopted, in words lucidly expressing the object to be accomplished:*

*The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among [252 U.S. 189, 206] the several states, and without regard to any census or enumeration.'*

*As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which otherwise might exist for an apportionment among the states of taxes laid on income. Brushaber v. Union Pacific R. R. Co., 240 U.S. 1, 17-19, 36 Sup.Ct. 236, Ann. Cas. 1917B, 713, L.R.A. 1917D, 414; Stanton v. Baltic Mining Co., 240 U.S. 103, 112 et seq., 36 Sup.Ct. 278; Peck & Co. v. Lowe, 247 U.S. 165, 172, 173 S., 38 Sup.Ct. 432.*

*A proper regard for its genesis, as well as its very clear language, requires also that this amendment shall not be extended by loose construction, so as to repeal or modify, except as applied to income, those provisions of the Constitution that require an apportionment according to population for direct taxes upon property, real and personal. This limitation still has an appropriate and important function, and is not to be overridden by Congress or disregarded by the courts.*

[...]

*After examining dictionaries in common use (Bouv. L. D.; Standard Dict.; Webster's Internat. Dict.; Century Dict.), we find little to add to the succinct definition adopted in two cases arising under the Corporation Tax Act of 1909 (*Stratton's Independence v. Howbert*, 231 U.S. 399, 415, 34 S.Sup.Ct. 136, 140 [58 L.Ed. 285]; *Doyle v.**

*Mitchell Bros. Co.*, 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469 [62 L.Ed. 1054]), **'Income may be defined as the gain derived from capital, from labor, or from both combined,' provided it be understood to include profit gained through a sale or conversion of capital assets, to which it was applied in the Doyle Case, 247 U.S. 183, 185**, 38 S.Sup.Ct. 467, 469 (62 L.Ed. 1054).

Brief as it is, it indicates the characteristic and distinguishing attribute of income essential for a correct solution of the present controversy. The government, although basing its argument upon the definition as quoted, placed chief emphasis upon the word 'gain,' which was extended to include a variety of meanings; while the significance of the next three words was either overlooked or misconceived. 'Derived-from- capital'; 'the gain-derived-from-capital,' etc. Here we have the essential matter: not a gain accruing to capital; not a growth or increment of value in the investment; but a gain, a profit, something of exchangeable value, proceeding from the property, severed from the capital, however invested or employed, and coming in, being 'derived'-that is, received or drawn by the recipient (the taxpayer) for his separate use, benefit and disposal- that is income derived from property. Nothing else answers the description.

[...]

Thus, from every point of view we are brought irresistibly to the conclusion that neither under the Sixteenth Amendment nor otherwise has Congress power to tax without apportionment a true stock dividend made lawfully and in good faith, or the accumulated profits behind it, as income of the stockholder. The Revenue Act of 1916, in so far as it imposes a tax upon the stockholder because of such dividend, contravenes the provisions of article 1, 2, cl. 3, and article 1, 9, cl. 4, of the Constitution, and to this extent is invalid, notwithstanding the Sixteenth Amendment.

[*Eisner v. Macomber*, 252 U.S. 189 (1920)]

You can read about this case yourself at the following location on the web:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=252&invol=189>

### 3.14.15 1922: Bailey v. Drexel Furniture Co., 259 U.S. 20

This case was about the validity of Child Labor Tax law imposed by Congress. The Drexel Furniture Company filed suit because it didn't want to be forced to pay the Child Labor Tax to the IRS. The Supreme Court ruled that the Child Labor Tax Law was unconstitutional because it amounted to social engineering and exceeded the powers conferred by the Constitution on the federal government. In effect, they called it socialism and an unconstitutional abuse of the taxing power of Congress and amounted to legislating socialism by compelling (plundering) employers to provide a specified level of benefits to their employees. The findings in this case are similar to the case of *Railroad Retirement Board v. Alton Railroad Co.*, 295 U.S. 330 (1935). The arguments used here apply equally well to the federal income tax, as we pointed out in the preface to this document.

*"Out of a proper respect for the acts of a co-ordinate branch of the government, this court has gone far to sustain taxing acts as such, even though there has been ground for suspecting, from the weight of the tax, it was intended to destroy its subject. But in the act before [259 U.S. 20, 38] us the presumption of validity cannot prevail, because the proof of the contrary is found on the very face of its provisions. Grant the validity of this law, and all that Congress would need to do, hereafter, in seeking to take over to its control any one of the great number of subjects of public interest, jurisdiction of which the states have never parted with, and which are reserved to them by the Tenth Amendment, would be to enact a detailed measure of complete regulation of the subject and enforce it by a so-called tax upon departures from it. To give such magic to the word 'tax' would be to break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the states."*

[*Bailey v. Drexel Furniture Co.*, 259 U.S. 20 (1922)]

### 3.14.16 1924: Cook v. Tait, 265 U.S. 47

The Supreme Court ruled that Congress has the power to tax the income received by a native Citizen of the United States domiciled abroad from property situated abroad and that the constitutional prohibition of unapportioned direct taxes within the states of the union does not apply in foreign countries.

You can read about this case yourself at the following location on the web:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=265&invol=47>

### 3.14.17 1930: Lucas v. Earl, 281 U.S. 111

**The Great  IRS Hoax: Why We Don't Owe Income Tax, version 4.54**

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1 In this case, the supreme Court ruled that income derived from wages and labor are not taxable, and that taxable "income"  
2 only includes profit:

3 *"The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and  
4 therefore must be returned by the individual who has performed the services which produced the gain is without  
5 support either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is  
6 directly opposed to provisions of the Act and to regulations of the U.S. Treasury Dept. which either prescribe or  
7 permit that compensation for personal services be not taxed as an entirety and be not returned by the individual  
8 performing the services. It is to be noted that by the language of the Act it is not salaries, wages or compensation  
9 for personal services that are to be included in gross income. That which is to be included is gains, profits and  
10 income **DERIVED** from salaries, wages or compensation for personal service."  
11 [Lucas v. Earl, 281 U.S. 111 (1930) [Emphasis added]]*

12 The above cite was argued by the counsel and did not appear in the court's ruling, but does underscore the nature of the  
13 income tax. Be cautious when you are looking up this case, because the Findlaw website doesn't include the whole verdict.  
14 You have to go to Versus Law (<http://www.versuslaw.com>) to view the whole case. We suggest that the reason for this is  
15 clear: there is a conspiracy within the legal profession and the courts to protect the income tax.

### 16 **3.14.18 1935: Railroad Retirement Board v. Alton Railroad Company, 295 U.S. 330**

17 After the Great Wall Street Crash in 1929, daily newspaper photographs of mile-long soup and bread lines persuaded a  
18 frightened public to eagerly embrace the introduction of the European style socialism in the form of Social Security, written  
19 and contrived in smoke-filled rooms by the same politician-puppets of the bankers who had engineered both the crash and  
20 the depression.

21 A public eager to exchange liberty for benefits would vote for those politicians who would promise to provide them with the  
22 greatest "fair share" of the public trough. Congress made its first attempt at socialist wealth redistribution when it passed  
23 legislation in 1934 to provide for the retirement of railroad workers. Here's what the Supreme Court had to say when they  
24 shot this act down as unconstitutional in their decision in *Railroad Retirement Board v. Alton Railroad Company* decided  
25 May 6, 1935:

26 *The catalog of means and actions which might be imposed upon an employer in any business, tending to the  
27 comfort and satisfaction of his employees, seems endless.*

28 *Provisions for free medical attendance and nursing, for clothing, for food, for housing, for the education of  
29 children, and a hundred other matters might with equal propriety be proposed as tending to relieve the employee  
30 of mental strain and worry.*

31 *Can it fairly be said that the power of Congress to regulate interstate commerce extends to the prescription of  
32 any or all of these things?*

33 *Is it not apparent that they are really and essentially related solely to social welfare of the worker, and therefore  
34 remote from any regulation of commerce as such? We think the answer is plain. These matters obviously lie  
35 outside the orbit of Congressional power."  
36 [Railroad Retirement Board v. Alton Railroad Co., 295 U.S. 330 (1935)]*

37 There you have it--the high court informing Congress that it has no constitutional authority whatsoever to legislate for the  
38 social welfare of the worker. The result was that when Social Security was instituted, it had to be treated as strictly voluntary.

### 39 **3.14.19 1938: Hassett v. Welch, 303 U.S. 303**

40 *"In view of other settled rules of statutory construction, which teach that... if doubt exists as to the construction  
41 of a taxing statute, the doubt should be resolved in favor of the taxpayer..."  
42 [Hassett v. Welch, 303 U.S. 303 (1938)]*

### 43 **3.14.20 1945: Hooven & Allison Co. v. Evatt, 324 U.S. 652**

44 *The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign  
45 occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory  
46 over which the sovereignty of the United States ex- [324 U.S. 652, 672] tends, or it may be the collective name  
47 of the states which are united by and under the Constitution.  
48 [Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)]*

1 This case is very important, since it establishes THREE separate definitions for the term “United States”. It also establishes  
 2 the areas over which the U.S. is sovereign. Of the three definitions, the only areas where federal income taxes apply are in  
 3 the areas over which the U.S. is sovereign, which is the District of Columbia, federal territories and possessions.

#### 4 **3.14.21 1960: Flora v. U.S., 362 U.S. 145**

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

7 The principle that our tax system is based upon voluntary assessment, has been emphasized and relied upon in subsequent  
 8 appellate court cases as well. The reason the courts and the IRS advise that it is voluntary is that if it were mandatory, there  
 9 would be a violation of your rights under the Bill of Rights—i.e., under the First, Fourth, and Fifth Amendments.

10 The First Amendment involves your freedom to speak to your government. It also includes your right not to speak to your  
 11 government (on a Form 1040). Forcing you to speak on a 1040 would violate your First Amendment rights.

12 The Fourth Amendment is your right to privacy—your right to be secure in your person and papers. Compelling you to  
 13 produce your personal financial information and records, etc., without a lawful court order would violate your Fourth  
 14 Amendment rights.

15 The Fifth Amendment states that “No person...shall be compelled in any criminal case to be a witness against himself.” This  
 16 simply means that you cannot be compelled to give information (on a Form 1040) because that act is equivalent to being a  
 17 witness against yourself. The IRS can take any information you provide and turn around and use it against you under any  
 18 circumstances, both civilly and criminally. In an instant, the IRS can have you under criminal investigation and potential  
 19 indictment. Therefore, compelling you to give information (evidence) against yourself would violate your Fifth Amendment  
 20 rights.

#### 21 **3.14.22 1960: U.S. v. Mersky, 361 U.S. 431**

22 This case is very important, because it reveals that a statute has no force and effect unless there is an implementing and  
 23 enforcing regulation behind it. Statutes without implementing regulations are unenforceable and create no obligation on the  
 24 part of the Citizen. All of the enforcement provisions of the Internal Revenue Code found In Subtitle F, Procedures and  
 25 Administration, therefore, must have *implementing regulations* applying the enforcement provision to the particular tax in  
 26 question. In all cases for the Income tax in Subtitle A, they simply *do not* have such regulations, making the income tax  
 27 entirely voluntary.

28 *“An administrative regulation, of course, is not a “statute.” While in practical effect regulations may be called*  
 29 *“little laws,” 7 they are at most but offspring of statutes. Congress alone may pass a statute, and the Criminal*  
 30 *Appeals Act calls for direct appeals if the District Court’s dismissal is based upon the invalidity or construction*  
 31 *of a statute. See United States v. Jones, 345 U.S. 377 (1953). This Court has always construed the Criminal*  
 32 *Appeals Act narrowly, limiting it strictly “to the instances specified.” United States v. Borden Co., 308 U.S. 188,*  
 33 *192 (1939). See also United States v. Swift & Co., 318 U.S. 442 (1943). Here the statute is not complete by itself,*  
 34 *since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the*  
 35 *effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of*  
 36 *origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying*  
 37 *language of the label itself, and assign the resulting tags to their respective geographical areas. Once*  
 38 *promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and*  
 39 *violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the*  
 40 *congressional language. **The result is that neither the statute nor the regulations are complete without the***  
 41 ***other, and only together do they have any force. In effect, therefore, the construction of one necessarily***  
 42 ***involves the construction of the other.”***  
 43 *[U.S. v. Mersky, 361 U.S. 431 (1960)]*

44 The companion to this case is *Calif. Bankers Assoc. v. Shultz*, 416 U.S. 25, found later in section 3.14.25. This case focuses  
 45 on the same issues and reaches the same conclusions, but states them differently.

#### 46 **3.14.23 1961: James v. United States, 366 U.S. 213, p. 213, 6 L.Ed.2d. 246**

47 This U.S. Supreme Court case reveals that the income which is taxed under federal law must come from a "source" as defined  
 48 under the law, as the law means exactly what is said,

1                    "...the Sixteenth Amendment, which grants Congress the power "to lay and collect taxes on incomes, from  
 2                    whatever source derived..." *Helvering v. Clifford*, 309 U.S. 331, 334; *Douglas v. Willcuts*, 296 U.S. 1,9. It has  
 3                    long been settled that Congress' broad statutory definitions of taxable income were intended "to use the full  
 4                    measure of taxing power." *The Sixteenth Amendment is to be taken as written and is not to be extended beyond*  
 5                    *the meaning clearly indicated by the language used.*" *Edwards v. Cuba R. Co.* 268 U.S. 628, 631 [From separate  
 6                    opinion by Whittaker, Black, and Douglas, JJ.] (Emphasis added)  
 7                    [*James v. United States*, 366 U.S. 213 (1961), p. 213, 6 L.Ed.2d. 246, pp.2 449495/564515]

8                    You can read about this case yourself at the following location on the web:

9                    <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=366&invol=213>

### 10                    **3.14.24 1970: Brady v. U.S., 397 U.S. 742 at 748**

11                    "Waivers of Constitutional Rights not only must be voluntary, they must be knowingly intelligent acts, done with  
 12                    sufficient awareness of the relevant circumstances and consequences."  
 13                    [*Brady v. U.S.*, 397 U.S. 742 (1970)]

14                    This case has far reaching implications. It says basically that a person must be aware of the agreement he is making to  
 15                    surrender his constitutional rights. It is relevant to the idea that if a person claims they are a U.S. citizen (that is, a resident  
 16                    of the District of Columbia who surrenders their Constitutional rights as indicated by *Downes v. Bidwell*, 182 U.S. 244  
 17                    (1901)), then they must be made fully aware of that they are waiving their rights in order for the waiver to be valid.

### 18                    **3.14.25 1974: California Bankers Association v. Shultz, 416 U.S. 25**

19                    This case is significant because it reveals that without implementing regulations that enforce penalties for a particular tax, no  
 20                    civil or criminal penalties for noncompliance can be imposed.

21                    "...the Act's civil and criminal penalties attach only upon violation of the regulation promulgated by the  
 22                    Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone...The  
 23                    Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal  
 24                    penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing  
 25                    language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so  
 26                    tested they are valid."  
 27                    [*California Bankers Assoc. v. Shultz*, 416 U.S. 25, 39 L.Ed.2nd. 812 (1974)]

28                    The implication of this is that absent an implementing regulation imposing a penalty for nonpayment or noncompliance with  
 29                    a particular tax in question, the tax cannot be enforced! The income tax found in Subtitle A of the Internal Revenue Code is  
 30                    the best example of this. The tax is imposed in 26 U.S.C. §1 but:

- 31                    1. Unlike all other taxes, there is no statute making anyone liable to pay it.
- 32                    2. There are general enforcement statutes found in Subtitle F, but unlike other types of taxes, there are no implementing  
 33                    regulations permitting enforcement. For instance, there is no 26 C.F.R. §1.6201 authorizing assessment by other than  
 34                    the taxpayer (because the system is based on voluntary assessment), no 26CFR §1.6331 authorizing levy, no 26 C.F.R.  
 35                    §1.6672 authorizing imposition of penalties for nonpayment. Therefore, the tax is truly voluntary! All other types of  
 36                    taxes have enforcement regulations.
- 37                    3. The regulations found in 26 C.F.R. §601 are procedural and general in nature and do NOT apply enforcement provisions  
 38                    to income taxes in Subtitle A (personal income taxes are in Section 1 of Subtitle A). These regulations are directory in  
 39                    nature and are not binding on Citizens, because they are never published in the federal register.

40                    For more information on this subject of the importance of implementing regulations, refer to the following sections:

- 41                    1. Section 4.5.4.17 of the *Sovereignty Forms and Instructions Manual*, Form #10.005, which contains a table showing the  
 42                    lack of implementing regulations for enforcement of personal income taxes.
- 43                    2. Section 5.4.10: IRS Has NO Legal Authority to Assess Penalties on Subtitles A and C Income Taxes on Natural Persons
- 44                    3. Section 5.4.11: No Implementing Regulations Authorizing Collection of Subtitles A and C Income Taxes
- 45                    4. Section 5.4.12: No Implementing Regulations for "Tax Evasion" or "Willful Failure to File" Under 26 U.S.C. §7201 or  
 46                    7203

### 47                    **3.14.26 1976: Garner v. U.S., 424 U.S. 648**

**The Great IRS Hoax: Why We Don't Owe Income Tax, version 4.54**

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1                    “The information revealed in the preparation and filing of an income tax return is, for the purposes of Fifth  
2 Amendment analysis, the testimony of a witness.”

3                    “Government compels the filing of a return much as it compels, for example, the appearance of a ‘witness’ before  
4 a grand jury.”  
5 [Garner v. United States, 424 U.S. 648 (1976)]

6 This ruling was significant as it in effect defined federal tax returns as testimony of a witness, because they are a written  
7 declaration signed under penalty of perjury. In effect, they are a written record of oral testimony. As it pertains to 5<sup>th</sup>  
8 Amendment protections, this ruling has been repeatedly ignored by the federal circuit courts, who, like the IRS, have  
9 historically relied on a trick of language to coax citizens into incriminating themselves in violation of their 5<sup>th</sup> Amendment  
10 rights. We talk about the trick in section 3.8.8.3.4 “Non Self Incrimination Right”, where we say that some of the circuit  
11 courts and the IRS have said that:

- 12 1. The 5<sup>th</sup> Amendment only protects “testimony” and not writings signed under penalty of perjury, such as tax returns.
- 13 2. The 5<sup>th</sup> Amendment only protects one from criminal prosecution and not civil prosecution.
- 14 3. Since tax returns are completed and submitted “voluntarily”, then their preparation is not compelled, and therefore, they  
15 can be used to incriminate the person submitting them.

16 What does it mean to be compelled? Below is a definition from the Random House Dictionary:

17                    1. To force, drive, esp. to a course of action. 2. To secure or bring about by force. 3. To force to submit;  
18 subdue. 5. To overpower.

19 The “trick” above of compelling a Citizen to testify against themselves in violation of their Fifth Amendment right was used,  
20 for instance, by the Tenth Circuit in the case of *William T. Conklin v. IRS*, No. 89N 1514.<sup>63</sup> It was clear from that case that  
21 the circuit court knew they were going against the Supreme Court, which is why they made that case “unpublished”, which  
22 is to say that they didn’t permit it to go into the record and sealed the record so other people couldn’t look at it unless they  
23 contact the court directly. That means it supposedly won’t be entered into any of the national case databases to be used by  
24 others for research. Is this also a violation of the First Amendment prohibition against censorship? We think so! William  
25 Conklin, by way of background, is a famous tax honesty and 5<sup>th</sup> Amendment advocate. This kind of hypocrisy on the part  
26 of the U.S. Government is scandalous, and needs to be remedied immediately. As we said at the beginning of this document,  
27 “the love of money [your money, by the federal government] is the root of all evil”.

28 Instead, we all know that no one likes completing income tax returns and wouldn’t do it if they weren’t compelled. How are  
29 they compelled?:

- 30 1. The threat of a [26 U.S.C. §7203](#) “Willful Failure to File” criminal prosecution and jail time for not submitting a tax  
31 return.
- 32 2. The threat of a [26 U.S.C. §6702](#) “F frivolous Income Tax Return” penalty of \$500 if the tax return is not complete and  
33 accurate.
- 34 3. The threat of a [26 U.S.C. §7201](#) “Attempt to evade or defeat tax” criminal prosecution if the tax return is not completed  
35 and submitted to the IRS.

36 These statutes clearly compel us to prepare the return and sign it under penalty of perjury, and without these statutes, most  
37 people wouldn’t prepare or submit returns, or “volunteer” as the IRS likes to say. However, this approach is clearly at odds  
38 with *Garner*, which has never been overruled, and our Fifth Amendment rights, because the return is identified as the  
39 testimony of a witness.

### 40 **3.14.27 1976: Fisher v. United States, 425 U.S. 391**

41                    “A subpoena served on a taxpayer requiring him to produce an accountant's workpapers in his possession without  
42 doubt involves substantial compulsion. But it does not compel oral testimony; nor would it ordinarily compel the  
43 taxpayer to restate, repeat, or affirm the truth of the contents of the documents sought. Therefore, the Fifth  
44 Amendment would not be violated by the fact alone that the papers on their face might incriminate the taxpayer,  
45 for the privilege protects a person only against being incriminated by his own compelled testimonial  
46 communications. *Schmerber v. California, supra; United States v. Wade, supra; and Gilbert v. California, supra*”

<sup>63</sup> See *Why No One is Required to File Tax Returns*, by William Conklin, 1996, Davidson Press, ISBN 189183391X, pp. 40-44.

1 [Fisher v. United States, 425 U.S. 391 (1976)]

2 This case ruled that the documents in the possession of a taxpayer that are subpoena'd by the government are *not* privileged  
3 or protected under the Fifth Amendment. The Fifth Amendment only applies to "compelled testimonial communications".  
4 This case forms the basis for why we say that you are not obligated to admit to the existence of any records if the IRS asks,  
5 such that if they subpoena you for nondescript records you have not admitted to having, then you aren't obligated to provide  
6 anything at all.

7 We'd also like to emphasize that there are two aspects of one's Fifth Amendment rights; 1. The act of producing the  
8 documents in response to a subpoena, which cannot be compelled and is privileged if it is (protected under [18 U.S.C. 6002-](#)  
9 [6003](#)). 2. The contents of the documents themselves, the production of which, if compelled is privileged, and if not compelled  
10 is not privileged. The documents themselves might not be privileged, but if the production of the documents in response to  
11 a subpoena is compelled, then the person who is the object of the subpoena, if the information would incriminate him and he  
12 is a "natural person", then his disclosure must protect him from incrimination as per 18 U.S.C. 6002-6003 before he can be  
13 compelled to provide the information.

### 14 **3.14.28 1978: Central Illinois Public Service Co. v. United States, 435 U.S. 21**

15 This case was about an employee who was receiving reimbursement for lunch expenses from his employer. The government  
16 claimed that this reimbursement counted as "wages" that should have been subject to withholding within the provisions of  
17 [26 U.S.C. §3401](#)(a) of the Internal Revenue Code of 1954. Here is the Supreme Court's Ruling:

18 *Decided cases have made the distinction between wages and income and have refused to equate the two in*  
19 *withholding or similar controversies. Peoples Life Ins. Co. v. United States, 179 Ct.Cl. 318, 332, 373 F.2d. 924,*  
20 *932 (1967); Humble Pipe Line Co. v. United States, 194 Ct.Cl. 944, 950, 442 F.2d. 1353, 1356 (1971); Humble*  
21 *Oil & Refining Co. v. United States, 194 Ct.Cl. 920, 442 F.2d. 1362 (1971); Stubbs, Overbeck & Associates v.*  
22 *United States, 445 F.2d. 1142 (CA5 1971); Royster Co. v. United States, 479 F.2d, at 390; Acacia Mutual Life*  
23 *Ins. Co. v. United States, 272 F.Supp. 188 (Md. 1967).*  
24 *[Central Illinois Public Service Co. v. United States, 435 U.S. 21 (1978)]*

25 This case reaffirmed that wages are not necessarily considered income for the purposes of income taxation.

### 26 **3.14.29 1985: U.S. v. Doe, 465 U.S. 605**

27 *"We conclude that the Court of Appeals erred in holding that the contents of the subpoenaed documents were*  
28 *privileged under the Fifth Amendment. The act of producing the documents at issue in this case is privileged and*  
29 *cannot be compelled without a statutory grant of use immunity pursuant to 18 U.S.C. 6002 and 6003."*  
30 *[U.S. v. Doe, 465 U.S. 605 (1984)]*

31 This was a case of a man who had several sole proprietorship businesses, and who had been subpoena'd by the government  
32 four separate times for records regarding his business. The District and Appellate court both ruled that he did not have to  
33 turn over the records because they were privileged and subject to the 5<sup>th</sup> Amendment protections of the sole proprietor. The  
34 Supreme court ruled that the act of producing subpoenaed documents would involve testimonial self-incrimination. Therefore  
35 "testimonial" does not exclude everything except oral testimony. The holding in this case supports the statement in *Garner*  
36 *v. United States* (424 U.S. 648) that the privilege against self-incrimination guaranteed by the 5<sup>th</sup> Amendment to the  
37 constitution applies to both written as well as oral compelled testimony that may have testimonial aspects and an incriminating  
38 effect.

39 You can read this case on the internet by visiting the hyperlink below:

40 <https://caselaw.findlaw.com/us-supreme-court/465/605.html>

### 41 **3.14.30 1991: Cheek v. United States, 498 U.S. 192<sup>64</sup>**

42 Did you know that several landmark "Not Guilty!" verdicts in cast of "Willful Failure to File" income tax returns are due in  
43 large part to the 1991 U.S. Supreme Court decision, *Cheek v. United States*, 498 U.S. 192 (1991) which involved an American

<sup>64</sup> *Losing Your Illusions*, Gordon Phillips, p. 124.

1 Airlines pilot named John L. Cheek? Believe it or not, until the Cheek decision, a defendant in a criminal tax trial could not  
2 even take the Internal Revenue Code into the courtroom in his own defense!

3 Cheek changed all that by holding that if the defendant has a subjective good faith belief no matter how unreasonable, that  
4 he or she was not required to file a tax return, the government cannot establish that the defendant acted willfully in not filing  
5 an income tax return. In other words, that the defendant shirked a known legal duty.

6 Now, the trial judge cannot prevent the jury from being shown any material evidence--books, videos, or otherwise--that  
7 guided one's thoughts and actions.

8 In writing the Cheek decision, the *New York Times* stated:

9 *"The Supreme Court ruled Tuesday that taxpayers who sincerely believe the federal income tax laws do not apply*  
10 *to them cannot be convicted of criminal tax violations even if there is no rational basis for their belief."*

11 Justice Byron White in writing the majority opinion of the high court, stated that the jury, and not the judge, should decide  
12 the sincerity of the defendant's belief. Since the statutes and regulations involving the income tax so obviously pertain to  
13 foreign activity only, it is our position to stay with the written Law since it can be clearly shown to be the truth to even the  
14 most unsympathetic jury.

15 The bottom line is that the Cheek decision has made it almost impossible for the IRS to convict a well-prepared individual  
16 for "Willful Failure to File" on an income tax return. The Cheek case is also important because, among other things, *it stands*  
17 *for the proposition that individuals who rely on attorneys and other professionals in making their decisions about the*  
18 *complex tax system are entitled to inform the jury as to the extent of their reliance. It also stands for the proposition that*  
19 *the jury must be instructed to view the defendant's actions subjectively, not objectively. In other words, the juror has to*  
20 *put his own pre-conceived notions aside of whether or not the juror believes everyone must file, and instead get inside the*  
21 *defendants head and try to determine if he really believed, based on the defendant's own research and advice of the*  
22 *attorneys he consulted, that he acted in good faith, and truly believed that his research in total indicated that he was not*  
23 *required to file. When it can be shown that one's actions were based on a good faith reliance on professional advice, the*  
24 *element of "a willful violation of the law," essential for a conviction, is conclusively eliminated.*

25 You can read about this case yourself at the following location on the web:

26 <https://caselaw.findlaw.com/us-supreme-court/498/192.html>

### 27 **3.14.31 1992: United States v. Burke, 504 U.S. 229, 119 L.Ed.2d. 34, 112 S Ct. 1867**

28 This U.S. Supreme Court case reveals that the income which is taxed under federal law must come from a "source" as defined  
29 under the law, as the law means exactly what is said,

30 *Congress's intent through § 61 of the Internal Revenue Code (26 USCS § 61(a))--which provides that gross*  
31 *income means all income from whatever source derived, subject to only the exclusions specifically enumerated*  
32 *elsewhere in the Code...and § 61(a)'s statutory precursors..."*  
33 *[United States v. Burke, 504 U.S. 229, 119 L.Ed.2d. 34, 112 S.Ct. 1867 (1992) (emphasis added)]*

34 You can read about this case yourself at the following location on the web:

35 <https://caselaw.findlaw.com/us-supreme-court/504/229.html>

### 36 **3.14.32 1995: U.S. v. Lopez, 514 U.S. 549**

37 This is a landmark case that firmly establishes the limits on Congressional power and the balance of power between the States  
38 and the Federal Government. Interestingly, it was not published like and numbered like the rest of the court cases, probably  
39 because the Supreme Court didn't want people to find out about it. We include a copy of it on our website. You can also  
40 read the case at the website below:

41 <https://caselaw.findlaw.com/us-supreme-court/514/549.html>

Below are some of the important findings of the court as they related to income taxes:

We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, § 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." *The Federalist* No. 45, pp. 292-293 (C. Rossiter ed. 1961). This constitutionally mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties." *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." *Ibid.*

The Constitution delegates to Congress the power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const., Art. I, § 8, cl. 3. The Court, through Chief Justice Marshall, first defined the nature of Congress' commerce power in *Gibbons v. Ogden*, 9 Wheat. 1, 189-190 (1824):

"Commerce, undoubtedly, is traffic, but it is something more: it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse."

The commerce power "is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution." *Id.*, at 196. The *Gibbons* Court, however, acknowledged that limitations on the commerce power are inherent in the very language of the Commerce Clause.

"It is not intended to say that these words comprehend that commerce, which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and is certainly unnecessary.

"Comprehensive as the word 'among' is, it may very properly be restricted to that commerce which concerns more States than one. . . . The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State." *Id.*, at 194-195.

For nearly a century thereafter, the Court's Commerce Clause decisions dealt but rarely with the extent of Congress' power, and almost entirely with the Commerce Clause as a limit on state legislation that discriminated against interstate commerce. See, e.g., *Veazie v. Moor*, 14 How. 568, 573-575 (1853) (upholding a state-created steamboat monopoly because it involved regulation of wholly internal commerce); *Kidd v. Pearson*, 128 U.S. 1, 17, 20-22 (1888) (upholding a state prohibition on the manufacture of intoxicating liquor because the commerce power "does not comprehend the purely domestic commerce of a State which is carried on between man and man within a State or between different parts of the same State"); see also L. Tribe, *American Constitutional Law* 306 (2d ed. 1988). Under this line of precedent, the Court held that certain categories of activity such as "production," "manufacturing," and "mining" were within the province of state governments, and thus were beyond the power of Congress under the Commerce Clause. See *Wickard v. Filburn*, 317 U.S. 111, 121 (1942) (describing development of Commerce Clause jurisprudence).

[...]

Consistent with this structure, we have identified three broad categories of activity that Congress may regulate under its commerce power. *Perez v. United States*, *supra*, at 150; see also *Hodel v. Virginia Surface Mining & Reclamation Assn.*, *supra*, at 276-277. First, Congress may regulate the use of the channels of interstate commerce. See, e.g., *Darby*, 312 U.S. at 114; *Heart of Atlanta Motel*, *supra*, at 256 ("[T]he authority of Congress to keep the channels of interstate commerce free from immoral and injurious uses has been frequently sustained, and is no longer open to question." (quoting *Caminetti v. United States*, 242 U.S. 470, 491 (1917))). Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. See, e.g., *Shreveport Rate Cases*, 234 U.S. 342 (1914); *Southern R. Co. v. United States*, 222 U.S. 20 (1911) (upholding amendments to Safety Appliance Act as applied to vehicles used in intrastate commerce); *Perez*, *supra*, at 150 ("[F]or example, the destruction of an aircraft (18 U.S.C. 32), or . . . thefts from interstate shipments (18 U.S.C. 659)"). Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, *Jones & Laughlin Steel*, 301 U.S. at 37, i.e., those activities that substantially affect interstate commerce. *Wirtz*, *supra*, at 196, n. 27. [*U.S. v. Lopez*, 514 U.S. 549 (1995)]

The significant aspect of this case is that it defines and constrains the jurisdiction and the power of the federal/U.S. government over the 50 State governments. *In particular, it establishes that the only legitimate reason for the federal*

1 government to reach inside of the boundary of a state and regulate anything is in pursuit of the regulation of commerce  
 2 between states or with foreign countries. This authority is granted as part of Article I, Section 8, Clause 3 of the U.S.  
 3 Constitution. Note that this authority does *not* extend to regulating commerce *within* the 50 Union states, but rather between  
 4 the states and with other nations. It also clearly establishes the three types of commerce activity that may be regulated within  
 5 the states based on the Commerce Clause.

6 Other areas of the Constitution are also consistent with this clear division of jurisdiction and powers between the federal  
 7 government and the States, most notably Article 1, Section 9, Clause 4, which prohibits direct taxation of Citizens within the  
 8 50 Union states without apportionment. The sovereignty of the States must be respected by the federal government under  
 9 the Constitution or the balance of powers would be broken down and tyranny would be the result, as explained above by the  
 10 Supreme Court. It should be clear that direct taxes on income of individuals derived from commerce within a state and not  
 11 either crossing state boundaries or connected with trade with foreign countries would clearly violate the authority of the  
 12 federal government under the Commerce Clause (1:8:3). Therefore, the income tax as currently enforced by the IRS as a  
 13 direct tax on the income of individuals within a state and derived from intra (not inter) state commerce should have been  
 14 declared unconstitutional and illegal by all the federal courts long ago.

### 15 **3.15 Federal District/Circuit Court Cases**

#### 16 **3.15.1 Commercial League Assoc. v. The People, 90 Ill. 166**

17 *" . . . There is a clear distinction between 'profit' and 'wages' or compensation for labor. Compensation for labor*  
 18 *cannot be regarded as profit within the meaning of the law. The word 'profit' as ordinarily used, means the gain*  
 19 *made upon business or investment - a different thing altogether from mere compensation for labor."*  
 20 *[Commercial League Assoc. v. The People, 90 Ill. 166]*

#### 21 **3.15.2 Jack Cole Co. v. Alfred McFarland, Sup.Ct. Tenn 337 S.W.2d. 453**

22 *"Legislature can name any privilege a taxable privilege and tax it by means other than an income tax, but*  
 23 *legislature cannot name something to be taxable privilege. Constitution Article II, Section 28 . . . realizing and*  
 24 *receiving income or earnings is not a privilege that can be taxed."*  
 25 *[Jack Cole Co. v. Alfred McFarland, Sup.Ct. Tenn 337 S.W.2d. 453]*

#### 26 **3.15.3 1916: Edwards v. Keith, 231 F 110, 113**

27 *"... one does not derive income by rendering services and charging for them."*  
 28 *[Edwards v. Keith, 231 F. 110 (1916)]*

#### 29 **3.15.4 1925: Sims v. Ahrens, 271 S.W. 720**

30 *"An income tax is neither a property tax nor a tax on occupations of common right, but is an EXCISE tax...The*  
 31 *legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common*  
 32 *right, but it has no power to declare as a 'privilege' and tax for revenue purposes, occupations that are of common*  
 33 *right."*  
 34 *[Sims v. Ahrens, 167 Ark. 557, 271 S.W. 720 (1925)]*

35 This case established that wage income from occupations that are a common right cannot be taxed as by the state.

#### 36 **3.15.5 1937: Stapler v. U.S., 21 F.Supp. AT 737**

37 *"Income within the meaning of the Sixteenth Amendment and the Revenue Act, means 'gain'... and in such*  
 38 *connection 'Gain' means profit...proceeding from property, severed from capital, however invested or employed,*  
 39 *and coming in, received, or drawn by the taxpayer, for his separate use, benefit and disposal.. "*  
 40 *[Stapler v. U.S., 21 F.Supp. AT 737 (1937)]*

#### 41 **3.15.6 1937: White Packing Co. v. Robertson, 89 F.2d. 775, 779 the 4th Circuit Court**

42 *"The tax is, of course an excise tax, as are all taxes on income . . ."*  
 43 *[White Packing Co. v. Robertson, 89 F.2d. 775 (1937)]*

#### 44 **3.15.7 1939: Graves v. People of State of New York, 306 S.Ct. 466**

The theory, which once won a qualified approval, that a tax on income is legally or economically a tax on its source, is no longer tenable, *New York ex rel. Cohn v. Graves*, 300 U.S. 308, 313, 314 S., 57 S.Ct. 466, 467, 108 A.L.R. 721; *Hale v. State Board*, 302 U.S. 95, 108, 58 S.Ct. 102, 106; *Helvering v. Gerhardt*, *supra*; cf. *Metcalfe & Eddy v. Mitchell*, 269 U.S. 514, 46 S.Ct. 172; *Fox Film Corp. v. Doyal*, 286 U.S. 123, 52 S.Ct. 546; *James v. Dravo Contracting Co.*, *supra*, page 149, 58 S.Ct. page 216; *Helvering v. Mountain Producers Corp.*, 303 U.S. 376, 58 S.Ct. 623, and the only possible basis for implying a constitutional immunity from state income tax of the salary of an employee of the national government or of a governmental agency is that the economic burden of the tax is in some way passed on so as to impose a burden on the national government tantamount to an interference by one government with the other in the performance of its functions.  
[*Graves v. People of State of New York*, 306 U.S. 466 (1939)]

This case ruled that a tax on income is not a tax on the “source” and that, in effect, income and source are not the same. This reinforces the notion presented in this document that, to be taxable “gross income”, the income must come from a taxable “source”.

### **3.15.8 1943: Helvering v. Edison Brothers' Stores, 8 Cir. 133 F.2d. 575**

*"The Treasury cannot by interpretive regulations, make income of that which is not income within the meaning of the revenue acts of Congress, nor can Congress, without apportionment, tax as income that which is not income within the meaning of the 16th Amendment."*  
[*Helvering v. Edison Brothers' Stores*, 8 Cir. 133 F.2d. 575 (1943)]

### **3.15.9 1946: Lauderdale Cemetery Assoc. v. Mathews, 345 PA 239, 47 A. 2d 277, 280**

*"... reasonable compensation for labor or services rendered is not profit."*  
[*Laureldale Cemetery Assoc. v. Mathews*, 345 Pa. 239, 47 A.2d. 277, 280 (1946)]

### **3.15.10 1947: McCutchin v. Commissioner of IRS, 159 F.2d. 472 5th Cir. 02/07/1947**

*"The 16th Amendment does not authorize laying of an income tax upon one person for the income derived solely from another." [wages]*  
[*McCutchin v. Commissioner of IRS*, 159 F.2d. 472 (1947)]

This case, along with the following additional cases, establishes that income from employment does not constitute taxable income as per the 16th Amendment.

### **3.15.11 1952: Anderson Oldsmobile , Inc. v. Hofferbert, 102 F.Supp. 902**

*"Constitutionally the only thing that can be taxed by Congress is "income." And the tax actually imposed by Congress has been on net income as distinct from gross income. THE TAX IS NOT, NEVER HAS BEEN, AND COULD NOT CONSTITUTIONALLY BE UPON "GROSS RECEIPTS" ..."*  
[*Anderson Oldsmobile, Inc. v. Hofferbert*, 102 F.Supp. 902 (1952)]

This case established that income taxes were never intended to be imposed on gross receipts or net income, but on "gross income".

### **3.15.12 1955: Oliver v. Halstead, 196 Va. 992, 86 S.E.2d. 858**

*"There is a clear distinction between profit and wages, or compensation for labor. Compensation for labor cannot be regarded as profit within the meaning of the law."*  
[*Oliver v. Halstead*, 196 Va. 992, 86 S.E.2d. 858 (1955)]

### **3.15.13 1958: Lyddon Co. vs. U.S. , 158 Fed. Supp 951**

*"When one files a return [voluntarily] showing a tax due, he has presumably assessed himself and is content to become liable for the tax and to pay it."*  
[*Lyddon Co. v. U.S. , 158 Fed.Supp. 951 (1958)*]

### **3.15.14 1960: Commissioner of IRS v. Duberstein, 80 S.Ct. 1190**

*"Property acquired by gift is excluded from gross income."*  
[*Commissioner of IRS v. Duberstein*, 80 S.Ct. 1190 (1960)]

1 Once again, this case severely restricts the meaning of "gross income" and "taxable income" within the meaning of the 16th  
2 amendment.

### 3 3.15.15 1962: Simmons v. United States, 303 F.2d. 160

4 This case is about a man named William Simmons, who caught a \$25,000 prize fish in a river, and did not want to include  
5 the prize money in his "gross income", over the objections of the IRS. This is an important case, since it helps establish the  
6 nature of "direct taxes."

7 *1. A direct tax is a tax on real or personal property, imposed solely by reason of its being owned by the taxpayer. A tax  
8 on the income from such property, such as a tax on rents or the interest on bonds, is also considered a direct tax, being  
9 basically a tax upon the ownership of property.<sup>65</sup> Yet, from the early days of the Republic, a tax upon the exercise of  
10 only some of the rights adhering to ownership, such as upon the use of property<sup>66</sup> or upon its transfer,<sup>67</sup> has been  
11 considered an indirect tax, not subject to the requirement of apportionment. The present tax falls into this latter  
12 category, being a tax upon the receipt of money and not upon its ownership.*

13 *This tax is similar to others held to be indirect. In the case which on its facts most nearly resembles the present one,  
14 Scholey v. Rew, 90 U.S. (23 Wall.) 331, 346-348, 23 L.Ed. 99 (1875), the Supreme Court upheld a federal death tax,  
15 placed upon persons receiving real property from a deceased under a will or by intestate succession, against the claim  
16 that the tax was an unapportioned direct tax on property. In that case, as in the present, the tax was borne directly by  
17 the recipient, but was held to be merely upon the transfer of property. The Scholey case was by name reaffirmed in  
18 Knowlton v. Moore, 178 U.S. 41, 78-83, 20 S.Ct. 742, 44 L.Ed. 969 (1900), and by implication in New York Trust Co.  
19 v. Eisner, 256 U.S. 345, 349, 41 S.Ct. 506, 75 L.Ed. 963 (1921), both cases upholding federal estate taxes imposed, not  
20 upon the beneficiary but upon the decedent's estate. A tax upon the donor of an inter vivos gift was held to be an indirect  
21 tax in Bromley v. McCaughn, 280 U.S. 124, 135-138, 50 S.Ct. 46, 74 L.Ed. 226 (1929). If a tax on giving property is  
22 indirect, so would be a tax on receiving it, regardless of its source. That no distinction may be drawn between giving  
23 and receiving was pointed out in Fernandez v. Wiener, 326 U.S. 340, 352-355, 361-362, 66 S.Ct. 178, 90 L.Ed. 116  
24 (1945), where the Supreme Court upheld as an indirect tax the federal estate tax on community property at the death  
25 of one spouse: "If the gift of property may be taxed, we cannot say that there is any want of constitutional power to tax  
26 the receipt of it, whether as a result of inheritance [citation omitted] or otherwise, whatever name may be given to the  
27 tax \* \* \*. Receipt in possession and enjoyment is as much a taxable occasion within the reach of the federal taxing  
28 power as the enjoyment of any other incident of property."<sup>68</sup>*

29 *While the distinctions drawn in these cases may seem artificial, the necessity for making them stems from the structure  
30 of the Constitution itself, which distinguishes between direct and indirect taxes. The Supreme Court has restricted the  
31 definition of direct taxes to the above-enumerated well-defined categories, and we have no warrant to expand them to  
32 others.*

33 *2. Even if we were to assume that the tax upon Simmons is direct, it comes within the Sixteenth Amendment, which  
34 relieved direct taxes upon income from the apportionment requirement. We need look no further than the two most  
35 recent Supreme Court cases in this area. In Commissioner of Internal Revenue v. Glenshaw Glass Co., 348 U.S. 426,  
36 75 S.Ct. 473, 99 L.Ed. 483 (1955), the Court upheld the inclusion in gross income of money received by the taxpayers  
37 as punitive damages, stating that "[here] we have instances of undeniable accessions to wealth, clearly realized, and  
38 over which the taxpayers have complete dominion." 348 U.S. at 431, 75 S.Ct. at 477. This test was specifically  
39 reaffirmed in James v. United States, 366 U.S. 213, 81 S.Ct. 1052, 6 L.Ed.2d. 246 (1961), where the Court considered  
40 the taxability of embezzled money. The plunder was held to be income solely because it came into the taxpayer's  
41 possession and control and despite the fact that he had no right to it and indeed was under a legal obligation to return  
42 it to its rightful owner. This obligation to repay was deemed irrelevant, for a gain "constitutes taxable income when its  
43 recipient has such control over it that, as a practical matter, he derives readily realizable economic value from it."<sup>69</sup>  
44 As is apparent from the quoted statements, and as illustrated by the diverse factual situations in these cases, it is the  
45 status in the recipient's hands of the money being taxed which is the crucial factor, while the source of the money is not  
46 relevant.  
47 [Simmons v. United States, 303 F.2d. 160 (1962)]*

<sup>65</sup> Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 15 S.Ct. 673, 39 L.Ed. 759, on rehearing, 158 U.S. 601, 627-628, 15 S.Ct. 912, 39 L.Ed. 1108 (1895).

<sup>66</sup> Hylton v. United States, 3 U.S. (3 Dall.) 171, 1 L.Ed. 556 (1796) (tax on carriages for the conveyance of persons).

<sup>67</sup> Fernandez v. Wiener, 326 U.S. 340, 352-355, 361-362, 66 S.Ct. 178, 90 L.Ed. 116 (1945) (estate tax on community property at death of one spouse).

<sup>68</sup> 326 U.S. at 353, 66 S.Ct. at 185. Analogous too are cases holding that a tax on the gross receipts of a business is an indirect tax, but, being a tax on business, this is more like the traditional excise tax, expressly treated by the Constitution as not direct. Spreckels Sugar Ref. Co. v. McClain, 192 U.S. 397, 410-413, 24 S.Ct. 376, 48 L.Ed. 496 (1904); Stanton v. Baltic Mining Co., 240 U.S. 103, 114, 36 S.Ct. 278, 60 L.Ed. 546 (1916) (alternate holding); Penn Mut. Indem. Co. v. Commissioner, 277 F.2d. 16, 18-20 (3d Cir. 1960), affirming 32 T.C. 653 (1959).

<sup>69</sup> Rutkin v. United States, 343 U.S. 130, 137, 72 S.Ct. 571, 96 L.Ed. 833 (1952), quoted in James v. United States, 366 U.S. 213, 219, 81 S.Ct. 1052, 6 L.Ed.2d. 246 (1961).

You will note here that the circuit court defines a “direct tax” as a tax on the ownership of *property*, not on “receipt” of *income!* They treat the transfer of income as an occasion for an “excise” tax. You will note that it completely ignores the concept that one’s own labor is property, and that taxes on labor are in effect “direct taxes” because they are incident on the ownership of one’s labor. This is consistent with the findings of the Supreme Court in *Butchers’ Union Co. v. Crescent City Co.*, 111 U.S. 746, which stated:

“...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 INVIOABLE...*”

This cite also ignores the other very important aspect of this case, which is that Congress only has the right to tax foreign, international, and interstate commerce, but not intrastate commerce (see section 5.2.6 “Cites that Define Federal Taxing Jurisdiction) under the following sections of the U.S. Constitution:

1. Article I, Section 8, Clause 1.
2. Article I, Section 8, Clause 3.

This case didn’t even discuss whether the income received related to interstate or foreign commerce and came within the jurisdiction of the U.S., and therefore did not properly apply the law to scope the federal power to tax this event as an “excise”. Instead, they just “assumed” that everything was derived from a taxable “source”, which was not the case. For instance, it ignored all of the issues discussed in chapter 5, as far as 26 U.S.C. Section 861 and the corresponding C.F.R.’s (26 C.F.R. §1.861-8) which limit “sources” the IRS can tax to these situations only. The case was rigged from the beginning because they assumed all of Mr. Simmons income was taxable and that he was a “taxpayer” without even attempting to establish his liability for tax under the above constraints.

### 3.15.16 1969: Conner v. U.S., 303 F.Supp. 1187

*“... whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true when the 16th Amendment became effective, it was true at the time of Eisner v. Macomber Supra, it was true under Section 22(a) of the Internal Revenue Code of 1938, and it is likewise true under Section 61(a) of the I.R.S. Code of 1954. If there is not gain, there is not income ... Congress has taxed income not compensation.”*  
[Conner v. U.S., 303 F Supp. 1187 (1969)]

### 3.15.17 1986: U.S. v. Stahl, 792 F.2d. 1438

*“[Defendant] Stahl's claim that ratification of the 16th Amendment was fraudulently certified constitutes a political question because we could not undertake independent resolution of this issue without expressing lack of respect due coordinate branches of government....”*  
[U.S. v. Stahl, 792 F.2d. 1438 (1986)]

## 3.16 IRS Publications and Internal Revenue Manual (IRM)

This section appears at the end of the chapter on the legal authority of income taxes because IRS publications have the lowest precedence or authority and do not supersede any law.

**WARNING!!!: May people are deceived by their own legal ignorance into thinking that the IRS publications that can be readily downloaded from the IRS website at <http://www.irs.gov/> have the force of law. But guess what? These publications are simply hearsay guidelines for Americans that have **NO LEGAL AUTHORITY OR RELEVANCY WHATSOEVER!** They cannot be used as evidence in a court of law or be read or used by a judge in a tax trial. The only thing that can be legitimately used in a court of law is the actual Internal Revenue Code (26 U.S.C.) and Title 26 of the Code of Federal Regulations (26 CFR)!**

***Also, don't allow yourself to be distracted by what is in these publications (or other commercial tax publications for that matter) by IRS agents or representatives, tax attorneys, or tax preparers during the tax litigation or administrative enforcement process, because these publications are simply irrelevant from a legal perspective. You need to vociferously remind everyone you interact with during***

***the tax compliance/enforcement process of this fact. Instead, you should redirect ALL of their comments and advice about taxes back to refer ONLY to the specific law from 26 U.S.C. and 26 C.F.R. that establishes the claim they are trying to make against you during the enforcement process!***

For further research on this matter, refer to the following court cases, which reveal that at least five federal courts have ruled that the provisions of the Internal Revenue Manual (IRM) are only directory in nature and are not mandatory nor do they therefore have the force of law.

1. *Luhring v. Glotzbach*, 304 F.2d. 560 (4th Cir. 1962).
2. *Einhorn v. DeWitt*, 618 F.2d. 347 (5th Cir. 1980).
3. *United States v. Goldstein*, 342 F.Supp. 661 (E.D.N.Y. 1972).
4. *Boulez v. C.I.R.*, 810 F.2d. 209 (D.C. Cir. 1987).
5. *United States v. Will*, 671 F.2d. 963, 967 (6<sup>th</sup> Cir. 1982).

The IRS' own procedures appearing in their very own Internal Revenue Manual (IRM), reflect the findings above, as follows:

*"IRS Publications, issued by the National Office, explain the law in plain language for taxpayers and their advisors... While a good source of general information, publications should not be cited to sustain a position."*

*[Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 (05-14-1999)]*

Remember that there is a precedence and order to the laws, regulations, and guidelines that govern IRS employees. The U.S. Constitution is supreme, followed by the Statutes at Large, then the codified positive law version of these statutes found in the U.S. Code, then the Code of Federal Regulations (C.F.R.) that implement the positive law statute, and finally the IRS Publications and the Internal Revenue Manual. Only the Constitution and the Statutes at Large can directly impact anyone with the force of law. Titles of the U.S. Codes that are not enacted into positive law, including the Internal Revenue Code and Title 50, which is where the Selective Service System was created, are simply prima facie *evidence* of law that have not been enacted into positive law. You can verify for yourself which titles the U.S. Code are positive law by referring to the legislative notes under 1 U.S.C. §204. Whenever there is a dispute over the meaning of a section of the Internal Revenue Code, the first thing you should do is refer back to the appropriate sections of the Statutes at Large from which a particular code was derived to determine the explicit intent of Congress in enacting that section.

26 C.F.R.'s Part 601 and the IRS publications are *not* binding on either the IRS or individuals, according to the federal courts ([Luhring v. Glotzbach](#), 304 F.2d. 560 (4th Cir. 05/28/1962), [Einhorn v. Dewitt](#), 618 F.2d. 347 (5th Cir. 06/04/1980)). 26 C.F.R. Part 301, on the other hand, has the force and effect of law and is binding both on the IRS and individuals because it is written by the Secretary of the Treasury under the authority of law found in 26 U.S.C. §7805. Also remember that where there are conflicts in terms and definitions or the application of the law, laws with a higher precedence *always* overrule those of the lower precedence. For instance, if the IRS publications have a much broader definition of "employer" than the U.S. Code, then the U.S. Code takes precedence. Federal agencies have no constitutional authority to broaden the application of the original law in the U.S. Code from which they derive the regulations they publish in the Federal Register that end up in the Code of Federal Regulations.

We refer you again for a definition of the words found in the U.S. Code as documented in section 3.9.1 of this publication for information about the deceptive/fraudulent word games that the congress and IRS play in the tax code. We also repeat and compare some of these definitions below for your benefit, as evidence of the deliberate deception that is part of the Great IRS Hoax

**Table 3-12: Comparison of Definitions Used in Various U.S. Statutes and Regulations**

<i>Term</i>	<i>Place defined</i>	<i>Definition</i>
Employer	26 U.S.C. §3401(c)	<p><i>Employer :</i></p> <p><i>For purposes of this chapter, the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that -</i></p> <p><i>(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for purposes of subsection (a))</i></p>

Term	Place defined	Definition
		<p><i>means the person having control of the payment of such wages, and (2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for purposes of subsection (a)) means such person.</i></p>
	<p>IRS Website  <a href="http://www.irs.gov/">(http://www.irs.gov/)</a>            Publication 15</p>	<p><b>Employee status under common law.</b> Generally, a worker who performs services for you is your employee if you can control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See <b>Pub . 5-A</b>, Employer's Supplemental Tax Guide, for more information on how to determine whether an individual providing services is an independent contractor or an employee.</p> <p>Generally, people in business for themselves are not employees. For example, doctors, lawyers, veterinarians, construction contractors, and others in an independent trade in which they offer their services to the public are usually not employees. However, if the business is incorporated, corporate officers who work in the business are employees. If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time.</p>
	<p>26 C.F.R. §31.3401(d)-1</p>	<p>The code below is restricted by the fact that it requires that a person be acting as an "<u>employee</u>" for the employer as defined narrowly by 26CFR31.3401(c)-1 below. This implies that in most cases, the employer is a government entity, which may in some cases be a receivership for an otherwise private entity. Therefore, if I am working for a private concern that has fallen into receivership or control of the government under bankruptcy laws, then I become an "employee" because I am working for a government agency. Otherwise, I am not an employee. You will also note that the definition of Employer below would also appear to be much broader than that found in 26 U.S.C. §3401, which is the regulation from which it derives.</p> <p><i>a) The term employer means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.</i></p> <p><i>(b) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an employer.</i></p> <p><i>(c) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.</i></p> <p><i>(d) The term employer embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.</i></p> <p><i>(e) The term employer also means (except for the purpose of the definition of wages) any person paying wages on behalf of a nonresident alien</i></p>

Term	Place defined	Definition
		<p><i>individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States).</i></p> <p><i>(f) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term employer means (except for the purpose of the definition of wages) the person having such control. For example, where wages, such as certain types of pensions or retired pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the employer.</i></p> <p><i>(g) The term employer also means a person making a payment of a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of Sec. 31.3401(a)-1 as if it were wages. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term employer shall mean such other person and not the person actually making the payment. (h) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under section 6051 and Sec. 31.6051- 1. The special definitions of the term employer in paragraphs (e), (f), and (g) of this section are designed solely to meet special or unusual situations. They are not intended as a departure from the basic purpose.</i></p>
	26 C.F.R. §31.3306(a)-1	<p>Definition of Employer under the FICA, or Federal Unemployment Tax Act. Note that this definition too does not apply to income tax withholding, but only to FICA taxes.</p> <p><i>(1a) For 1970 and subsequent calendar years. Every person who employs 4 or more employees in employment (within the meaning of section 3306 (c) and (d)) on a total of 20 or more calendar days during a calendar year after 1969, or during the calendar year immediately preceding such a calendar year, each such day being in a different calendar week, is with respect to such year an employer subject to the tax.</i></p>
	26 C.F.R. §31.3231(a)-1	<p>Defines who are employers under the Railroad Retirement Act ONLY, not under the entirety of the rest of section 31. Therefore, this definition doesn't apply to most people.</p>
Employee	26 U.S.C. §3401(c)	<p><i>Employee</i></p> <p><i>For purposes of this chapter, the term "employee" includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.</i></p>
	26 CFR31.3401(c)-1	<p><i>(a) The term employee includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.</i></p> <p>...</p> <p><i>(g) The term employee includes every individual who receives a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of Sec. 31.3401(a)-1 as if it were wages.</i></p> <p><i>(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances,</i></p>

<i>Term</i>	<i>Place defined</i>	<i>Definition</i>
		<i>that the remuneration paid for such services does not constitute wages within the meaning of section 3401(a).</i>
	26 C.F.R. §31.3306(i)-1	This definition once again refers to the Federal Unemployment Tax Act (FICA taxes) only.  <i>(a) Every individual is an employee if the relationship between him and the person for whom he performs services is the legal relationship of employer and employee. (The word "employer" as used in this section only, notwithstanding the provisions of Sec. 31.3306(a)-1, includes a person who employs one or more employees.) ...</i>
	26 C.F.R. §31.3231(b)-1	Defines who are employees under the Railroad Retirement Act ONLY, not under the rest of section 31.
Withholding agent	26 U.S.C. §7701	<i>Withholding agent :</i> <i>The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section <a href="#">1441</a>, 1442, 1443, or 1461.</i>  Section 1441 is entitled "Withholding of tax on nonresident aliens". Section 1442 is entitled "Withholding tax on foreign corporations". Section 1443 is entitled "Foreign tax-exempt organizations". Section 1461 is entitled "Liability for withheld tax" and provides that:  <i>"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."</i>
Wages	IRS Website: <a href="http://www.irs.gov/">http://www.irs.gov/</a> Pub 15	Wages subject to Federal employment taxes include all pay you give an employee for services performed. The pay may be in cash or in other forms. It includes salaries, vacation allowances, bonuses, commissions, and fringe benefits. It does not matter how you measure or make the payments. Also, compensation paid to a former employee for services performed while still employed is wages subject to employment taxes. See section 6 for a discussion of tips and section 7 for a discussion of supplemental wages. Also see section 15 for exceptions to the general rules for wages. <b>Pub . 5-A</b> , Employer's Supplemental Tax Guide, provides additional information on wages and other compensation, including: <ul style="list-style-type: none"> <li><input type="checkbox"/> Adoption assistance</li> <li><input type="checkbox"/> Awards</li> <li><input type="checkbox"/> Back pay</li> <li><input type="checkbox"/> Below-market loans</li> <li><input type="checkbox"/> Cafeteria plans</li> <li><input type="checkbox"/> Deferred compensation</li> <li><input type="checkbox"/> Dependent care assistance</li> <li><input type="checkbox"/> Educational assistance</li> <li><input type="checkbox"/> Employee stock options</li> <li><input type="checkbox"/> Group-term life insurance</li> <li><input type="checkbox"/> Leave sharing</li> <li><input type="checkbox"/> Outplacement services</li> <li><input type="checkbox"/> Retirement plans</li> <li><input type="checkbox"/> Supplemental unemployment benefits</li> <li><input type="checkbox"/> Withholding for idle time</li> </ul>

Term	Place defined	Definition
Withholding authority by "agents"	26 C.F.R. §31.3504-1	<p>(a) <i>In general. In the event wages as defined in chapter 21 or 24 of the Internal Revenue Code of 1954, or compensation as defined in chapter 22 of such Code, of an employee or group of employees, employed by one or more employers, is paid by a fiduciary, agent, or other person, or if such fiduciary, agent, or other person has the control, receipt, custody, or disposal of such wages, or compensation, the district director, or director of a service center, may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of such employer or employers under those provisions of the Internal Revenue Code of 1954 and the regulations thereunder which have application, for purposes of the taxes imposed by such chapter or chapters, in respect of such wages or compensation. If the fiduciary, agent, or other person is authorized by the district director, or director of a service center, to perform such acts, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to employers in respect of such acts shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person performs such acts shall remain subject to all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable to an employer in respect of such acts. Any application for authorization to perform such acts, signed by such fiduciary, agent, or other person, shall be filed with the district director, or director of a service center, with whom the fiduciary, agent, or other person will, upon approval of such application, file returns in accordance with such authorization.</i></p> <p>(b) <i>Prior authorizations continued. An authorization in effect under section 1632 of the Internal Revenue Code of 1939 on December 31, 1954, continues in effect under section 3504 and is subject to the provisions of paragraph (a) of this section.</i></p> <p>Did you notice that this code does NOT say that the district director may "order" the agent to withhold? He can only "authorize such fiduciary, agent, or other person to perform such acts as are required of such employer or employers under those provisions of the Internal Revenue Code of 1954 and the regulations thereunder which have application, for purposes of the taxes imposed by such chapter or chapters, in respect of such wages or compensation". The question arises then: "What if he doesn't want to withhold or the employees don't want him withholding?" The answer is that the agent can't be forced under color of law to withhold according to this.</p>

1 If the IRS put these *unambiguous* definitions from the U.S. Code at the beginning of the IRS publications, do you think most  
2 people would pay anything to the IRS? NOT! Instead, they put the definitions of "withholding agent", "employee", "trade  
3 or business", and "United States" NOT in the C.F.R.'s but deep at the end of the U.S.C, where people aren't likely to look at  
4 it. Most other titles of the U.S. Code put the definitions at the *beginning* of the title. In implementing the U.S. Code through  
5 the C.F.R., you will note that the Treasury department left the definition of "employee" intact but considerably broadened  
6 the definition of "employer" to deceive people. By what authority did the Treasury and IRS do this? There is none! They  
7 have no constitutional or statutory authority to broaden the definition of any term used in the U.S. Code when applying it in  
8 the C.F.R.'s. Instead, we believe they simply wanted to have more leverage in the use of scare tactics against private  
9 companies so they could prevent a Citizen revolt in the process of refusing to sign W-4's that illegally authorize the  
10 enforcement of what are actually federal donations to the municipal government of the District of Columbia. We believe  
11 they were "testing the waters" to see how much the courts and citizens would let them get away with by asking for *far more*  
12 from Americans than they have legal authority to get based on the U.S. Codes that they derive their regulations and authority  
13 from.

After all, why would an employee want to argue with their employer (look a gift horse in the mouth) and risk their job by dragging their employer into court to litigate the improper application of the tax code by their employer and the wrongful taking of taxes caused by the misreporting of “taxable income” on their W-2 forms? An old Chinese proverb sums this situation up very wisely:

*“The mouth that eats does not talk.”*

Note, however, that the term “employer” in the C.F.R. still depends on and is derived from the definition of employee in the U.S. Code, and therefore it can be no more expansive than the original definition of employer found in the U.S.C. **This kind of devious legal chicanery is the reason why even to this day employers still incorrectly report “gross income” in their tax withholdings reported to the IRS, and the IRS wants to keep it that way!**

**To make matters worse, if you call up the IRS and ask them for advice, they will not claim ANY responsibility for it, nor do they have a legal obligation to assume responsibility!** This is true even when the IRS agents are dead wrong! President Reagan attested to this when he said in a 1984 Associated Press (AP) release:

*“The government has the nerve to tell the people of the country, ‘You figure out how much you owe us—and we can’t help you because our people don’t understand it either (the Code)—and if you make a mistake, we’ll make you pay a penalty for making the mistake.’”*  
[Ronald Reagan, 1984 Associated Press]

And to further ensconce itself in the “ivory tower”, the IRS came up with Publication 17, which states:

*“The publication covers some subjects on which certain courts have taken positions more favorable to the taxpayers than the official position of the Service. Until these interpretations are resolved by higher court decisions, or otherwise, the publication will continue to present the viewpoint of the Service.”*  
[IRS Publication 17]

The above is a disclaimer and it is also a tacit admission that IRS publications do not necessarily present the law, but only the law as the IRS wants you to understand it.

Of course, this game-playing by the Department of Plunder directly violates other supreme Court cases, including *Spreckels Sugar Refining Co. v. McClain*, 192 U.S. 397(1904), which stated:

*“Keeping in mind the well-settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid.**”*  
[*Spreckels Sugar Refining Co. v. McClain*, 192 U.S. 397 (1904)]

The final twist in the IRS maze comes in IRS Publication 21, where the IRS essentially tells you that you must decide whether you are required to file or not. Ultimately, the decision of whether to file tax returns is truly your responsibility.

Here is what the federal courts say about the admissibility or reliance on the contents of the Internal Revenue Manual:

*“Rules contained in Internal Revenue Manual, even if they were codified in the Code of Federal Regulations, did not have force and effect of law, and therefore, district court, in Government’s action to collect assessment, correctly precluded defendant from introducing evidence concerning these provisions.”*  
[*United States v. Horne*, 714 F.2d. 206 (1983)]

*“Internal revenue manual was not promulgated pursuant to any mandate or delegation of authority by Congress so that procedures set forth in manual did not have effect of rule of law and therefore were not binding on Internal Revenue Service so that manual conveyed no rights to taxpayers and taxpayers could not allege noncompliance with those procedures to invalidate tax levies.”*  
[*First Federal Sav. And Loan Ass’n v. Goldman*, 644 F.Supp. 101 (W.D.Pa. 1986)]

### 3.17 **Topical Legal Discussions**

#### 3.17.1 **Uncertainty of the Federal Tax Codes**

As we mentioned earlier, our very own favorite President, Ronald Reagan, attested to the complexity of the tax code when he said to the Associated Press in 1984:

1                   *"The government has the nerve to tell the people of the country, 'You figure out how much you owe us-and we*  
 2                   *can't help you because our people don't understand it either (the Code)—and if you make a mistake, we'll make*  
 3                   *you pay a penalty for making the mistake."*

4 For several years now, a variety of high public officials have openly declared that the federal income tax code is incredibly  
 5 complex and needs to be either substantially revised or scrapped. But after making such statements, these officials invariably  
 6 fail to identify what specific parts of the tax code suffer from this condition, choosing instead to conceal them. Are the  
 7 objectionable parts of the federal tax code secretly and quietly discussed behind closed Congressional committee doors? If  
 8 they are, why doesn't someone inform the American public of these deficiencies so that they may likewise participate in this  
 9 debate? Is it possible that it is the major and not various minor features of the tax code which are complex, even uncertain?  
 10 Is it possible that these major features are so fundamentally flawed that they simply cannot be repaired? If so, what is the  
 11 legal consequence of this complexity?

12 It is alleged that the legal duties arising from the tax code are clearly known to all, but there are a few exceptions to this rule.  
 13 For example, in *United States v. Critzer*, 498 F.2d. 1160 (4th Cir. 1974), at issue was the validity of the conviction of an  
 14 Indian for tax evasion. Here, the Bureau of Indian Affairs had informed Mrs. Critzer that the money she derived from real  
 15 property located within a reservation was not taxable; Mrs. Critzer relied upon this advice and failed to report such income.  
 16 But, the IRS maintained a contrary position and indicted and secured her conviction for tax evasion. This conviction was  
 17 reversed on the grounds that the unsettled nature of this field of law precluded any conviction:

18                   *"While the record amply supports the conclusion that the underreporting was intentional, the record also reflects*  
 19                   *that, concededly, whether defendant's unreported income was taxable is problematical and the government is in*  
 20                   *dispute with itself as to whether the omitted income was taxable," Id., at 1160.*

21                   *"We hold that defendant must be exonerated from the charges lodged against her. As a matter of law, defendant*  
 22                   *cannot be guilty of willfully evading and defeating income taxes on income, the taxability of which is so*  
 23                   *uncertain that even co-ordinate branches of the United States Government plausibly reach directly opposing*  
 24                   *conclusions. As a matter of law, the requisite intent to evade and defeat income taxes is missing. The obligation*  
 25                   *to pay is so problematical that defendant's actual intent is irrelevant. Even if she had consulted the law and sought*  
 26                   *to guide herself accordingly, she could have had no certainty as to what the law required.*

27                   *"It is settled that when the law is vague or highly debatable, a defendant- actually or imputedly- lacks the*  
 28                   *requisite intent to violate it," Id., at 1162.*

29 This single case is an adequate demonstration that there is at least one part of the tax code which is unclear and that lack of  
 30 clarity caused the reversal of Mrs. Critzer's criminal conviction. But there are others; see *United States v. Mallas*, 762 F.2d.  
 31 361 (4th Cir. 1985)(a prosecution for violating an unclear legal duty abridges principles of due process); *United States v.*  
 32 *Garber*, 607 F.2d. 92, 97-98 (5th Cir. 1979); *United States v. Dahlstrom*, 713 F.2d. 1423, 1429 (9th Cir. 1983); *United States*  
 33 *v. Heller*, 830 F.2d. 150 (11th Cir. 1987); and *United States v. Harris*, 942 F.2d. 1125 (7th Cir. 1991). Unclear legal duties in  
 34 other fields of law besides tax likewise prevent criminal convictions on due process grounds; see *United States v. Insko*, 496  
 35 F.2d. 204 (5th Cir. 1974); *People v. Dempster*, 396 Mich. 700, 242 N.W.2d. 381 (1976); *United States v. Anzalone*, 766 F.2d.  
 36 676, 681-82 (1st Cir. 1985); *United States v. Denmark*, 779 F.2d. 1559 (11th Cir. 1986); *United States v. Varbel*, 780 F.2d.  
 37 758, 762 (9th Cir. 1986); *United States v. Dela Espriella*, 781 F.2d. 1432 (9th Cir. 1986); and *United States v. Larson*, 796  
 38 F.2d. 244 (8th Cir. 1986).

39 Under the U.S. Constitution, the Congress is authorized to impose two different types of taxes, direct and indirect. Via Art.  
 40 1, §8, cl. 1, of the Constitution, indirect taxes (excises, duties and imposts) must be uniformly imposed throughout the country.  
 41 Direct taxes are required via Art. 1, §2, cl. 3, and Art. 1, §9, cl. 4, to be imposed pursuant to the regulation of apportionment.  
 42 These tax categories are mutually exclusive and any given tax must squarely fit within one category or the other. To which  
 43 constitutional category does the federal income tax belong? Is it a direct tax, or is it an indirect tax? Do American courts  
 44 speak with unanimity about this simple question of what is the nature of this tax?

45 To determine whether and to what extent there is any uncertainty or conflict of authority regarding the nature of the federal  
 46 income tax requires at least a short review of the fundamental decisions concerning it. In 1894, Congress adopted an income  
 47 tax act which was declared unconstitutional in *Pollock v. Farmers' Loan & Trust Co.*, 157 U.S. 429, 15 S.Ct. 673, aff. reh.,  
 48 158 U.S. 601, 15 S.Ct. 912 (1895). The *Pollock* Court found that the income tax was a direct tax which could only be imposed  
 49 if the tax was apportioned; since this tax was not apportioned, it was found unconstitutional. In an effort to circumvent this  
 50 decision, the 16th Amendment was proposed by Congress in 1909 and allegedly ratified by the states in 1913. As a result,  
 51 various opinions arose regarding the legal effect of the amendment. Some factions contended that the 16th Amendment simply  
 52 eliminated the apportionment requirement for one specific direct tax known as the income tax, while others asserted that the

1 amendment simply withdrew it from the direct tax category and placed the income tax in the indirect, excise tax class. These  
 2 competing contentions and interpretations were apparently resolved in *Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1,  
 3 36 S.Ct. 236 (1916).[1] Rather than attempt a determination of what the Court held in this case, it is more important to learn  
 4 what various courts have subsequently declared *Brushaber* to mean.

5 A little more than a week after the opinion in *Brushaber*, similar issues were present for decision in *Stanton v. Baltic Mining*  
 6 *Co.*, 240 U.S. 103, 112-13, 36 S.Ct. 278 (1916), which involved the question of whether an inadequate depletion allowance  
 7 for a mining company constituted a direct tax on the company's property. As to Baltic's contention that "the 16th Amendment  
 8 authorized only an exceptional direct income tax without apportionment," the Court rejected it by stating that this contention:

9 *"... manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th*  
 10 *Amendment conferred no new power of taxation, but simply prohibited the previous complete and plenary power*  
 11 *of income taxation possessed by Congress from the beginning from being taken out of the category of indirect*  
 12 *taxation to which it inherently belonged, and being placed in the category of direct taxation."*

13 The Court clearly held that income taxes inherently belonged to the indirect/excise tax class, but had been converted by  
 14 *Pollock* to direct taxes by considering the source of the income; the 16th Amendment merely banished the rule in *Pollock*.  
 15 See also *Tyee Realty Co. v. Anderson*, 240 U.S. 115, 36 S.Ct. 281 (1916), decided the same day.

16 However, the victory of defining what the 16th Amendment meant was short lived and later decisions commenced a course  
 17 which appears to have changed the meaning of *Brushaber*, or at least provided fertile grounds for an entirely different and  
 18 opposite construction of it. In *William E. Peck & Co. v. Lowe*, 247 U.S. 165, 172-73, 38 S.Ct. 432, 433 (1918), which involved  
 19 a tax imposed on export earnings, the Court seemed to indicate that what was accomplished by the amendment was the  
 20 elimination of the apportionment requirement for the direct tax known as the income tax, an argument rejected in *Baltic*:

21 *"The Sixteenth Amendment, although referred to in argument, has no real bearing and may be put out of view. As*  
 22 *pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely*  
 23 *removed all occasion, which otherwise might exist, for an apportionment among the states of taxes laid on income,*  
 24 *whether it be derived from one source or another."*

25 The drift away from the position of the Court that the income tax via the 16th Amendment fell within the excise tax category  
 26 became more pronounced with the decision in *Eisner v. Macomber*, 252 U.S. 189, 206, 40 S.Ct. 189 (1920), which involved  
 27 the application of this tax to a stock dividend. Here, the Court plainly stated what many lawyers and some judges today think  
 28 was accomplished by means of this amendment: the elimination of the apportionment requirement for the direct tax known  
 29 as the income tax. In deciding this case, the Court quoted the amendment and then redeclared its meaning:

30 *"As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which*  
 31 *otherwise might exist for an apportionment among the states of taxes laid on income. Brushaber....,"* 252 U.S., at  
 32 206.

33 *"A proper regard for its genesis, as well as its very clear language, requires also that this amendment shall not*  
 34 *be extended by loose construction, so as to repeal or modify, except as applied to income, those provisions of the*  
 35 *Constitution that require an apportionment according to population for direct taxes upon property, real and*  
 36 *personal."*

37 Is this the resurfacing of the argument that "the 16th Amendment authorized only an exceptional direct income tax without  
 38 apportionment" condemned in *Baltic*?

39 From a study of *Brushaber*, it is thus possible for someone to rely upon those portions of the two phrases at the beginning  
 40 and ending of 240 U.S. 19 to believe that "the 16th Amendment authorized only an exceptional direct income tax without  
 41 apportionment." If one fell into that error, this belief would be magnified by the above highlighted portions of *Eisner*.  
 42 Confusion abounds as to the correct interpretation of *Brushaber*, and this is obvious because various courts of this country  
 43 have relied upon this line of authority to reach diametrically opposing results.

44 The state courts have been particularly split over the nature of an income tax and whether it constitutes a direct property tax  
 45 or an indirect/excise, which is not imposed on property. A small number of them hold that an income tax is a direct property  
 46 tax; see *Eliasberg Bros. Mercantile Co. v. Grimes*, 204 Ala. 492, 86 So. 56, 58 (1920); *State v. Pinder*, 108 A. 43, 45 (Del.  
 47 1919); *Bachrach v. Nelson*, 349 Ill. 579, 182 N.E. 909 (1932); *Opinion of the Justices*, 220 Mass. 613, 108 N.E. 570 (1915);  
 48 *Trefry v. Putnam*, 227 Mass. 522, 116 N.E. 904 (1917); *Maguire v. Tax Comm. of Commonwealth*, 230 Mass. 503, 120 N.E.  
 49 162, 166 (1918); *Hart v. Tax Comm.*, 240 Mass. 37, 132 N.E. 621 (1921); *In re Ponzi*, 6 F.2d. 324 (D.Mass. 1925); *Kennedy*

1 v. *Comm. of Corps. & Taxation*, 256 Mass. 426, 152 N.E. 747 (1926); *In re Opinion of the Justices*, 266 Mass. 583, 165 N.E.  
 2 900, 902 (1929); *Hutchins v. Comm. of Corps. & Taxation*, 272 Mass. 422, 172 N.E. 605, 608 (1930); *Bryant v. Comm. of*  
 3 *Corps. & Tax'n.*, 291 Mass. 498, 197 N.E. 509 (1935); *Culliton v. Chase*, 174 Wash. 363, 25 P.2d. 81, 82 (1933)[2]; *Jensen*  
 4 *v. Henneford*, 185 Wash. 209, 53 P.2d. 607 (1936); *State ex rel Manitowoc Gas Co. v. Wisconsin Tax Comm.*, 161 Wis. 111,  
 5 152 N.W. 848, 850 (1915); and *State ex rel Sallie F. Moon Co. v. Wisconsin Tax Comm.*, 166 Wis. 287, 163 N.W. 639, 640  
 6 (1917). A far larger number of state courts disagree with the cases noted above and have held that an income tax is not a  
 7 property tax but an excise; see *Purnell v. Page*, 133 N.C. 125, 45 S.E. 534, 535 (1903); *State v. Frear*, 148 Wis. 456, 134  
 8 N.W. 673, 692 (1912); *Opinion of Justices*, 77 N.H. 611, 93 A. 311, 313 (1915); *Ludlow-Saylor Wire Co. v. Wollbrinck*, 275  
 9 Mo. 339, 205 S.W. 196 (1918); *Hattiesburg Grocery Co. v. Robertson*, 126 Miss. 34, 88 So. 4 (1921); *Stanley v. Gates*, 179  
 10 Ark. 886, 19 S.W.2d. 1000, 1001 (1929); *Featherstone v. Norman*, 170 Ga. 370, 153 S.E. 58 (1930); *Diefendorf v. Gallet*, 51  
 11 Idaho 619, 10 P.2d. 307, 313 (1932); *O'Connell v. State Board*, 95 Mont. 91, 25 P.2d. 114, 119 (1933); *Maxwell v. Kent-*  
 12 *Coffey Mfg. Co.*, 204 N.C. 365, 168 S.E. 397, 400 (1933); *Reed v. Bjornson*, 191 Minn. 254, 253 N.W. 102, 109 (1934);  
 13 *Opinion of the Justices*, 133 Me. 525, 178 A. 621, 623 (1935); *Miles v. Dept. of Treasury*, 209 Ind. 172, 199 N.E. 372, 377  
 14 (1935)(citing *Brushaber*); *Marshall v. South Carolina Tax Comm.*, 178 S.C. 57, 182 S.E. 96, 97 (1935); *Hunton v.*  
 15 *Commonwealth*, 166 Va. 229, 183 S.E. 873, 876 (1936); *Reynolds Metal Co. v. Martin*, 269 Ky. 378, 107 S.W.2d. 251, 259  
 16 (1937); *Vilas v. Iowa State Bd. of Assess. & Review*, 223 Iowa 604, 273 N.W. 338, 342 (1937); *Oursler v. Tawes*, 178 Md.  
 17 471, 13 A.2d. 763, 768 (1940); *California Co. v. State*, 141 Colo. 288, 348 P.2d. 382 (1959); and *Burns v. State Bureau of*  
 18 *Revenue*, 79 N.M. 53, 439 P.2d. 702, 706 (1968).

19 This split of authority evident within the state cases also manifests itself in the federal appellate courts. For example, in the  
 20 First Circuit it is difficult to determine the meaning of the 16th Amendment because in *United States v. Turano*, 802 F.2d.  
 21 10, 12 (1st Cir. 1986), that court held that the "16th Amendment eliminated the indirect/direct distinction as applied to taxes  
 22 on income." Next door in the Second Circuit, there is uncertainty revealed by three completely inconsistent cases. In *Jandorf's*  
 23 *Estate v. Commissioner*, 171 F.2d. 464, 465 (2nd Cir. 1948), that court declared, "It should be noted that estate or inheritance  
 24 taxes are excises ... while surtaxes, excess profits and war-profits taxes are direct property taxes." Surtaxes are the graduated  
 25 taxes of the income tax, so this court holds that the personal income tax is a direct tax. But in *Ficalora v. Commissioner*, 751  
 26 F.2d. 85, 87 (2nd Cir. 1984), that court stated that the personal income tax was an indirect tax: "[T]he Supreme Court explicitly  
 27 stated that taxes on income from one's employment are not direct taxes and are not subject to the necessity of apportionment."  
 28 But compare *United States v. Sitka*, 845 F.2d. 43, 46 (2nd Cir. 1988)(citing *Parker*, *infra*, for the proposition that the tax is  
 29 direct). In the Third Circuit, it has been held in one case that all income taxes are direct, but in another that only some are  
 30 direct; see *Keasbey & Mattison Co. v. Rothensies*, 133 F.2d. 894, 897 (3rd Cir. 1943)("[A]n income tax is a direct tax upon  
 31 income therein defined"); and *Penn Mutual Indemnity Co. v. Commissioner*, 277 F.2d. 16, 19 (3rd Cir. 1960)("Pollock ....  
 32 only held that a tax on the income derived from real or personal property was so close to a tax on that property that it could  
 33 not be imposed without apportionment. The Sixteenth Amendment removed that barrier").

34 In the remainder of the Circuits, the difference of opinion as to whether the federal income tax is a direct or indirect tax is  
 35 likewise as profound and confusing. In the Fourth and Sixth Circuits, the income tax has been held to be an excise tax; see  
 36 *White Packing Co. v. Robertson*, 89 F.2d. 775, 779 (4th Cir. 1937)("The tax is, of course, an excise tax, as are all taxes on  
 37 income..."); and *United States v. Gaumer*, 972 F.2d. 723, 725 (6th Cir. 1992)("Brushaber and the Congressional Record  
 38 excerpt do indeed state that for constitutional purposes, the income tax is an excise tax"). However, in the Fifth, Seventh,  
 39 Eighth and Tenth Circuits, arguments that this tax is an excise have been squarely rejected and determined to be frivolous.  
 40 For example, in *Parker v. Commissioner*, 724 F.2d. 469, 471 (5th Cir. 1984), the court clearly rejected the contention that  
 41 this tax is an excise:

42 "The Supreme Court promptly determined in *Brushaber*... that the sixteenth amendment provided the needed  
 43 constitutional basis for the imposition of a direct non-apportioned income tax.

44 "The sixteenth amendment merely eliminates the requirement that the direct income tax be apportioned among  
 45 the states.

46 "The sixteenth amendment was enacted for the express purpose of providing for a direct income tax."

47 In *Coleman v. Commissioner*, 791 F.2d. 68, 70 (7th Cir. 1986), the court held that an argument that this tax was an excise  
 48 was frivolous on its face ("The power thus long predates the Sixteenth Amendment, which did no more than remove the  
 49 apportionment requirement..."). A similar conclusion was reached in *United States v. Francisco*, 614 F.2d. 617, 619 (8th Cir.  
 50 1980), that court declaring that *Brushaber* held this tax to be a direct one:

"The cases cited by Francisco clearly establish that the income tax is a direct tax, thus refuting the argument based upon his first theory. See *Brushaber v. Union Pacific Railroad Co.*, 240 U.S. 1, 19, 36 S.Ct. 236, 242, 60 L.Ed. 493 (1916) (the purpose of the Sixteenth Amendment was to take the income tax 'out of the class of excises, duties and imposts and place it in the class of direct taxes').[3]

Finally, in *United States v. Lawson*, 670 F.2d. 923, 927 (10th Cir. 1982), that court expressed in the following fashion its contempt for the contention that the federal income tax was an excise:

"Lawson's 'jurisdictional' claim, more accurately a constitutional claim, is based on an argument that the Sixteenth Amendment only authorizes excise-type taxes on income derived from activities that are government-licensed or otherwise specially protected... The contention is totally without merit... The Sixteenth Amendment removed any need to apportion income taxes among the states that otherwise would have been required by Article I, Section 9, clause 4."

Therefore, while the Supreme Court rejected in *Baltic* the argument that "the 16th Amendment authorized only an exceptional direct income tax without apportionment," this position now prevails in the Fifth, Seventh, Eighth and Tenth Circuits. In the Second Circuit, the existing authority illogically claims that the tax is both.

A direct tax applies to and taxes property while an indirect, excise tax is never imposed on property but usually an event such as sales; see *Bromley v. McCaughn*, 280 U.S. 124, 50 S.Ct. 46, 47 (1929).[4] Those courts which hold that an income tax is a direct property tax believe that income is property, yet those which hold that this tax is an excise declare that income is not property. If the courts of this country cannot identify what is the nature of this ephemeral item known as income,[5] then how can the American people? While in *Critzer* the difference of opinion existed between two government agencies, here the difference of opinion is among many different courts, a situation far more serious than that presented in *Heller*. *Aren't we being subjected to a monumental due process problem far bigger than that to which Mrs. Critzer was subjected?*

The question of what constitutes property is an issue governed by state law; see *Acquilino v. United States*, 363 U.S. 509, 512-13, 80 S.Ct. 1277, 1280 (1960), and *United States v. Baldwin*, 575 F.2d. 1097, 1098 (4th Cir. 1978). The definition of the term "property" is very broad; see *Samet v. Farmers' & Merchants' Nat. Bank*, 247 F. 669, 671 (4th Cir. 1917)("Property is .... everything that has exchangeable value or goes to make up a man's wealth"). It includes money, credits, evidences of debt, and choices in action; see *State v. Ward*, 222 N.C. 316, 22 S.E.2d. 922, 925 (1942). Income is property according to *St. Louis Union Trust Co. v. United States*, 617 F.2d. 1293, 1301 (8th Cir. 1980). Accrued wages and salaries are likewise property; see *Sims v. United States*, 252 F.2d. 434, 437 (4th Cir. 1958), *aff'd.*, 359 U.S. 108, 79 S.Ct. 641 (1959); and *Kolb v. Berlin*, 356 F.2d. 269, 271 (5th Cir. 1966). Accounts receivable are property; see *In re Ralar Distributors, Inc.*, 4 F.3d. 62, 67 (1st Cir. 1993). Even private employment and a profession are considered property; see *United States v. Briggs*, 514 F.2d. 794, 798 (5th Cir. 1975).

There appears to be no dispute about the plain requirements of the Constitution that direct taxes must be apportioned and that indirect taxes must be uniform. Likewise as shown above, there is a line of decisional authority regarding the generally accepted proposition that income is property, although there are courts which deny this. In *James v. United States*, 970 F.2d. 750, 755, 756 n. 11 (10th Cir. 1992), the 10th Circuit made it clear that income is property. Pursuant to *United States v. Lawson*, *supra*, the Tenth Circuit declares that the property known as income is subject to tax under the view that the 16th Amendment eliminated the apportionment requirement for a specific class of property known as income. However, there is ample contrary judicial authority which demonstrates that this construction of the 16th Amendment is erroneous and that the purpose, intent and meaning of the amendment was the opposite construction and that the amendment did not free this one type of property tax from the regulation of apportionment. An error in a logical argument involving a single premise affects the ultimate conclusion. If the Tenth Circuit accepted the proposition that the meaning of the 16th Amendment was contrary to that asserted in *Lawson*, but adhered to its decision in *James*, a valid legal argument would logically follow that property known as income could not be taxed because the current income tax is not apportioned.

This same problem, but from an opposite perspective, is evident within the Fourth Circuit where the existing authority of *Sims v. United States*, *supra*, declares that income is property. Since that Circuit holds that the federal income tax is an excise via *White Packing Co. v. Robertson*, *supra*, and since the definition of an excise tax appearing in that Court's opinion in *New Neighborhoods, Inc. v. West Virginia Workers' Comp. Fund*, 886 F.2d. 714, 719 (4th Cir. 1989), excludes a tax on property, does it not logically follow that there is a tremendous gap in the decisional authority within the Fourth Circuit which presents a view of the law that the property known as income might not be taxed? Based on these cases, is this tax clearly imposed?

Review of the above noted authority in other circuits and states only demonstrates how profound this problem is. In the Sixth Circuit, *United States v. Gaumer*, *supra*, declares the income tax to be an excise; via *Jack Cole Co. v. MacFarland*, 337

1 S.W.2d. 453, 455-56 (Tenn. 1960), the Tennessee Supreme Court has held that an excise tax cannot be used to tax the right  
 2 to earn a living. Which authority do the people living in Tennessee follow? If they follow the word of their own state court,  
 3 they might be charged with a tax crime, yet they have a right to rely upon the word of the courts, even when erroneous; see  
 4 *United States v. Albertini*, 830 F.2d. 985, 989 (9th Cir. 1987). A different problem emerges in the Eighth Circuit where *United*  
 5 *States v. Francisco*, supra, holds that an income tax is a direct property tax. Missouri is within the Eighth Circuit, but the  
 6 Missouri Supreme Court held in *Ludlow-Saylor Wire Co. v. Wollbrinck*, supra, that an income tax is an excise; if income is  
 7 not property under Missouri state law,[6] then how does this federal property tax operate as to this "non-property"? Iowa is  
 8 also in the Eighth Circuit, but in *Hale v. Iowa State Board of Assessment and Review*, 223 Iowa 321, 271 N.W. 168, 172  
 9 (1937), that court held that "income is not property within the law of taxation." If state law holds that income is not property  
 10 yet the federal appellate court for the same state holds the exact opposite, is not a serious uncertainty of the law, due process  
 11 problem clearly evident?

12 The decisional authority within the Fifth Circuit, *Parker v. Commissioner*, supra, holds that this tax is a direct property tax,  
 13 but a contrary view prevails in Mississippi where its citizens are told that an income tax is an excise; see *Hattiesburg Grocery*  
 14 *Co. v. Robertson*, supra. The courts in Wisconsin and Indiana, via *State v. Frear*, supra, and *Miles v. Dept. of Treasury*, supra,  
 15 have found this tax to be an excise, yet the federal appellate court which encompasses these two states has an entirely different  
 16 view of the object of the tax; see *Coleman v. Commissioner*, supra. The Tenth Circuit, which sits in Denver, held in *Lawson*,  
 17 supra, that the income tax is a property tax, yet a state court in the same city has declared that such a tax is an excise; see  
 18 *California Co. v. State*, supra.

19 In Alabama, income is property via *Eliasberg Bros. Mercantile Co. v. Grimes*, supra; but next door in Georgia via  
 20 *Featherstone v. Norman*,[7] it is not. While the Eleventh Circuit appears not as yet to have passed upon the question of what  
 21 type of tax the federal income tax is, consultation of Supreme Court decisions still doesn't resolve the question. By following  
 22 the rationale of *Brushaber* and *Bromley*, supra, which declare the federal income tax to be an excise tax which is not imposed  
 23 on property, are the people of Alabama exempt from this tax while those in Georgia are not? But by reversing the choice of  
 24 Supreme Court decisions to follow in an effort to resolve this controversy merely changes the results but not the problem. By  
 25 following *Eisner* which seems to hold that the tax is imposed on property, do the people of Alabama owe the tax while those  
 26 in Georgia do not? These differing conclusions plainly reveal a serious uncertainty about what is taxed, and no attempt is  
 27 made herein to offer any explanation for all of this inconsistency; but it is clear that this uncertainty of the law creates a  
 28 serious due process problem.

29 The problems created by the failure of American courts to determine what is the nature of an income tax are very broad. Any  
 30 particular federal tax must fit within one of the two constitutional tax categories and once the category is known, it may be  
 31 determined whether the tax in question complies with the constitutional regulation for imposition of that type of tax. A direct  
 32 tax which is uniformly imposed would still be unconstitutional as one imposed in the absence of apportionment. An indirect  
 33 tax imposed via apportionment would likewise be unconstitutional since it would not be uniform. But if it is impossible to  
 34 determine which class any given tax falls within, then it is likewise impossible to determine which constitutional regulation,  
 35 if any, applies to that tax. If the courts of this country hold that an income tax is both an excise tax and a direct one, it cannot  
 36 with any degree of certainty be determined what constitutional restrictions might or might not apply to this tax or what is  
 37 even the meaning of the 16th Amendment. What's more, it cannot be determine what is income, whether property or non-  
 38 property.

39 But this is not the only fundamental problem for the federal income tax. Additionally, the question of which statute controls  
 40 the duty to file income tax returns is subject to judicial dispute. In *Commissioner v. Lane-Wells Co.*, 321 U.S. 219, 222, 64  
 41 S.Ct. 511, 513 (1944), the Court noted that §54 of the 1939 Internal Revenue Code, the predecessor for Internal Revenue  
 42 Code §6001, related to the filing requirement; see also *Updike v. United States*, 8 F.2d. 913, 915 (8th Cir. 1925). In *True v.*  
 43 *United States*, 354 F.2d. 323, 324 (Ct.Cl. 1965), *United States v. Carlson*, 260 F.Supp. 423, 425 (E.D.N.Y. 1966), *White v.*  
 44 *Commissioner*, 72 U.S.T.C. 1126, 1129 (1979), *McCaskill v. Commissioner*, 77 U.S.T.C. 689, 698 (1981), *Counts v.*  
 45 *Commissioner*, 774 F.2d. 426, 427 (11th Cir. 1985), *Blount v. Commissioner*, 86 U.S.T.C. 383, 386 (1986), and *Beard v.*  
 46 *Commissioner*, 793 F.2d. 139 (6th Cir. 1986), these courts held that Internal Revenue Code §6011 related to the filing  
 47 requirement. In *United States v. Moore*, 627 F.2d. 830, 834 (7th Cir. 1980), *United States v. Dawes*, 951 F.2d. 1189, 1192, n.  
 48 3 (10th Cir. 1991), and *United States v. Hicks*, 947 F.2d. 1356, 1360 (9th Cir. 1991), those courts held that Internal Revenue  
 49 Code §§ 6011 and 6012 governed this duty. In contrast, the cases of *Steinbrecher v. Commissioner*, 712 F.2d. 195, 198 (5th  
 50 Cir. 1983), *United States v. Bowers*, 920 F.2d. 220, 222 (4th Cir. 1990), and *United States v. Neff*, 954 F.2d. 698, 699 (11th  
 51 Cir. 1992), held that only §6012 governed this duty. But in *United States v. Pilcher*, 672 F.2d. 875, 877 (11th Cir. 1982),  
 52 none of the above sections were mentioned and it was held that §7203 required returns to be filed. It is very apparent that

1 there is even a diversity of opinion among judges regarding which sections of the Internal Revenue Code govern the  
2 requirement to file income tax returns.

3 The observation of the dissenting judge in *Culliton v. Chase*, 25 P.2d. at 89-90, that this "disagreement of the courts and  
4 judges on identical problems seems to afford the highest proof that 'reasonable doubt' does exist," is particularly appropriate  
5 here. *If American courts cannot decide such fundamental questions as what is the nature of the income tax and which section*  
6 *of the Internal Revenue Code requires the filing of an income tax return, then it is obvious that a serious due process problem*  
7 *exists within the federal income tax code.*

8 If American courts cannot decide such fundamental questions as what is the nature of the income tax and which section of  
9 the Internal Revenue Code requires the filing of an income tax return, then it is obvious that the problem with this tax involves  
10 these basic questions. Since even the courts are split over these questions, shouldn't we just scrap the whole thing since the  
11 condition which exists is incapable of repair?

12 Based on the foregoing discussion, congress apparently must like this kind of legal anarchy over the tax codes, because it has  
13 existed ever since income taxes were introduced with the 16th Amendment to the U.S. Constitution and it has never been  
14 resolved since the amendment was ratified in 1916. It is clear that amendment introduced a lot of ambiguity in the tax system,  
15 which Congress has exploited to their advantage, as evidenced by the fact that the IRS forms and publications still largely  
16 ignore the 26 U.S.C. §861 "source" issue as well as the "gross income" issue. In addition, the congress has made the tax code  
17 MORE, not LESS ambiguous over the years by trying to downplay the "source" issue, making the wording confusing and  
18 unnecessarily complex, as well as removing definitions from the code needed to interpret it, such as "Employee", for instance  
19 (see section 3.9.1.4 for further details on this subject) . So long as the congress can continue to advantage the government  
20 financially by exploiting that deliberate ambiguity and confusion and preserve the illusion of "freedom and liberty" within  
21 our country thereby, then there are good reasons for not resolving the conflict by modifying the legislation to read more  
22 clearly and eliminate the need to litigate the issues further.

23 In 1913 during the debate on the first income tax act under the 16th Amendment, Senator Elihu Root commented about the  
24 complexity of that first law:

25 "I guess you will have to go to jail. If that is the result of not understanding *the Income Tax Law I shall meet you*  
26 *there. We shall have a merry, merry time, for all of our friends will be there. It will be an intellectual center, for*  
27 *no one understands the Income Tax Law except persons who have not sufficient intelligence to understand the*  
28 *questions that arise under it."*[8]

29 Apparently, nothing has changed.

### 30 **END NOTES:**

31 [1] In this decision, there is a very lengthy sentence which contains the following phrase: "... by which alone such taxes were  
32 removed from the great class of excises, duties and imposts subject to the rule of uniformity, and were placed under the other  
33 or direct class," 240 U.S., at 19. This phrase and the one at the very end of this paragraph are almost identical. This language  
34 was used to describe the contention the Court was rejecting, not approving.

35 [2] The dissent in this case noted the wide divergence of the authority as to whether the tax is a direct property tax or an  
36 excise. It commented: "The disagreement of the courts and judges on identical problems seems to afford the highest proof  
37 that 'reasonable doubt' does exist," 25 P.2d, at 89-90.

38 [3] It is interesting to note that this court relied upon those portions of the *Brushaber* decision quoted previously where the  
39 Court noted the argument is was precisely rejecting. If the judges who are legal scholars are capable of completely  
40 misunderstanding this opinion, is it not also probable that the American people and even lawyers can make the same mistake?

41 [4] The Court defined these two types of taxes in the following manner: "While taxes levied upon or collected from persons  
42 because of their general ownership of property may be taken to be direct.... a tax imposed upon a particular use of property  
43 or the exercise of a single power over property incidental to ownership, is an excise which need not be apportioned..."

44 [5] At least one court has declared that the term "income" is not defined in the Internal Revenue Code; see *United States v.*  
45 *Ballard*, 535 F.2d. 400, 404 (8th Cir. 1976).

[6] The Court in *Ludlow*, 205 S.W. at 198, declared that income is not property: "It is apparent therefore, that when the Constitution of 1875 was adopted, the word 'property' as the basis for taxation, proportioned to value, had acquired a fixed and definite meaning preclusive of personal incomes, occupations, privileges and similar sources of revenue."

[7] See 153 S.E. at 65: "Hence a man's income is not 'property' within the meaning of a constitutional requirement that taxes shall be laid equally and uniformly upon all property within the State."

[8] See *The United States Tax Court: An Historical Analysis*, page 12, by Harold Dubroff. Published by CCH.

### 3.17.2 Reasonable Cause

The concept of "reasonable cause" is a vitally important one... and is applicable to the information in many of the subjects discussed in this document. The best place to begin the explanation of "reasonable cause" is in a generally accepted standard of legal construction and meaning, Black's law Dictionary, which sees this as a term relating to Criminal law. Yet the term contains the following relevant attributes:

*"...(the) state of facts as would lead (a) man of ordinary care and prudence to believe and entertain a strong and honest suspicion."*

Prudence is a very important word in this statement...

There are many mentions of "reasonable cause" in the statutes, such as a reason for not withholding the income tax from the source under § 3402, and not sending in a return the IRS expects under 6724, but none really identifies what reasonable cause means under other laws lacking such definitions.

The truth is discovered, in 26 C.F.R. § 1.6661-6(b) where the regulation plainly states that: "reliance on a position" contained in a proposed regulation would ordinarily constitute reasonable cause and good faith. The word "ordinarily" makes it plainly clear when this definition of the term is in effect.

Also see 26 C.F.R. § 1.6661-6, the mere advice of CPA's and tax professionals cannot be relied upon for 'reasonable cause' and good faith as the Secretary has this to say about the subject:

*Reliance on an information return or on the advice of a professional (such as an appraiser, an attorney, or an accountant) would not necessarily constitute a showing of reasonable cause and good faith. Similarly, reliance on facts that, unknown to the taxpayer, are incorrect, would not necessarily constitute a showing of reasonable cause and good faith.*

It is plainly apparent by this, the only clear and expansive definition of "reasonable cause" in the entire tax code, stating that any action taken must be well grounded in fact and in law to constitute 'reasonable cause' and 'good faith', after prudent examination of both the facts and the law, not merely advice..

From our understanding, without this criteria being fulfilled, there is nowhere for a payor or employer to claim "reasonable cause and good faith" for their actions, such as ignoring a claim made pursuant to 26 C.F.R. §1.6041A(a)(ii), or any other law which plainly means what the words in it say... if someone has acted without reasonable cause, what then can be their excuse and protection?

### 3.17.3 The Collective Entity Rule

#### 3.17.3.1 Origins of the Collective Entity Rule

The U.S. Supreme Court has repeatedly held that the mandate of the Fifth Amendment, which protects "persons" from compulsory self-incrimination, applies only to "natural people" and not to "fictitious" ones, such as limited and general partnerships, limited liability companies, and corporations. Therefore, corporations, partnerships, limited partnerships, limited liability companies, and other kinds of business organizations are treated differently from individuals for Fifth Amendment purposes. This concept is known as the "Collective Entity Rule."

The Collective Entity Rule was first articulated in *Hale v. Henkel*, 201 U.S. 43, 26 S.Ct. 370, 50 L.Ed. 652 (1906). In that case, a corporate officer, who had been served with a subpoena duces tecum commanding the production of corporate books

1 and records, claimed a Fifth Amendment privilege against production of the corporate books and records. The Hale Court  
2 denied the claim of a privilege, opining that:

3 *"[W]e are of the opinion that there is a clear distinction . . . between an individual and a corporation, and . . . the*  
4 *latter has no right to refuse to submit its books and papers for examination at the suit of the State. 5*

5 Hale made it clear that a corporation has no Fifth Amendment privilege that insulates the collective entity from producing  
6 corporate books and records. The Court's rationale was that because the corporation:

7 *is a creature of the state[,] . . . [i]t receives certain special privileges and franchises, and holds them subject to*  
8 *the laws of the state and the limitations of its charter. Its powers are limited by law. It would be a strange anomaly*  
9 *to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise*  
10 *of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and*  
11 *demand the production of the corporate books and papers for that purpose. However, the Hale Court did not*  
12 *decide whether a corporate officer or custodian of records could refuse to produce corporate documents by*  
13 *invoking his or her personal Fifth Amendment privilege.<sup>6</sup>*

14 In *Wilson v. United States*, 221 U.S. 361 (1911), the Supreme Court held that the corporate officer or custodian cannot use  
15 his or her **personal** Fifth Amendment privilege to shield the corporation from producing corporate records. The Court  
16 reasoned that:

17 *[W]ilson held the corporate books subject to the corporate duty. If the corporation were guilty of misconduct, he*  
18 *could not withhold its books to save it; and if he were implicated in the violation of law, he could not withhold*  
19 *the books to protect himself from the effect of their disclosures. The [State's] reserved powers of visitation would*  
20 *seriously be embarrassed, if not wholly defeated in its effective exercise, if guilty officers could refuse inspection*  
21 *of the records and papers of the corporation. No personal privilege to which they are entitled requires such a*  
22 *conclusion.... [T]he visitatorial power which exists with respect to the corporation of necessity reaches the*  
23 *corporate books without regard to the conduct of the custodian.<sup>70</sup>*

### 24 3.17.3.2 Extensions to the Collective Entity Rule

25 Very recently the Supreme Court held in *United States v. Hubbell*, 120 S.Ct. 2037 (2000) That interrogatories and depositions  
26 of natural persons, are protected under the Collective Entity Rule. Clearly distinguishing between you and I as natural persons  
27 and a **person** who is subject to an internal revenue tax.

28 This principle of the Collective Entity Rule was recently applied in Tax Court by Larry Becraft in stopping the government  
29 from compelling the production of documents protected by the Fifth Amendment. You might also cite the following two  
30 cases regarding the Collective Entity Rule:

- 31 1. *Baltimore City DSS v. Bouknight*, 493 U.S. 549 (1990)
- 32 2. *Brasswell v. United States*, 487 U.S. 99, 104, 107 - 109, 119, 121 - 125, Footnote 5 (1988). Also, on your Loop 6, the  
33 filing in court, in the Remedy portion. I think "MRF-1" should be "MFR-1".

34 Who or what are you? Are you a piece of paper, a legal fiction called a person, or are you a Natural Person or Human?

35 Black's Law Dictionary defines a corporation as:

36 *"An artificial person or legal entity created by or under the authority of the laws of a state. An association of*  
37 *persons created by statute as a legal entity. The law treats the corporation as a person which can sue and be*  
38 *sued."*

39 Therefore, under the laws of the state, as a "person" rather than a "natural person" you are a legal fiction a corporate/person  
40 property of the state and federal government! Natural persons such as yourself are living Souls in human form who cannot  
41 be taxed for the mere privilege of earning a living.

### 42 3.17.3.3 Legal Fiction

<sup>70</sup> Id. at 384-385. See *Dreier v. United States*, 221 US 394, 31 S.Ct. 550, 55 L.Ed. 784 (1911) (it makes no difference that the document request was directed to the custodian of records rather than to the corporation itself; so long as the documents are property of the corporation, they must be produced).

Two things are required if you are to be taxed. First, the government must have jurisdiction over you as a corporation/person (rather than a "natural person")... property of the state. And you must be engaged in some activity, which is taxable and requires the exercise of a government-granted privilege.

In Section 3.8.9 where we talked about the 13th Amendment to the U.S. Constitution, which outlawed slavery we pointed out that the reason there was no law requiring you to file or pay income tax is because such a law would create the prohibited condition of slavery and involuntary servitude. Later I pointed out that if there were no law requiring you to file or pay, the authority of the government to tax you must come from a somewhere else. That somewhere else is a contract.

**THERE IS A CONTRACT BETWEEN YOU AND THE FEDERAL GOVERNMENT WHERE IN YOU GIVE THEM AUTHORITY OVER YOU AND THE POWER TO TAX YOU.**

#### 3.17.3.4 Your Fall

According to the Constitution, you are one of the "We the People" who created the Federal Government. It is self-evident that the government is paper and you are a natural person. But from the government's point of view, you are their corporate/person, property, or slave.

The journey from freedom to slavery began when you applied for your Social Security number and checked the box that said, "Check here if you are a U.S. citizen." By checking the box you were born again, a *citizen*, a paper creation of the government.

According to 26 C.F.R. §1.1-1(c)

*"Every person born or naturalized in the United States and subject to its jurisdiction is a citizen."*

Do you get it? Remember that there are three definitions for the words United States or united States (see section 4.7 for further details). When United States is written with a capital U and S it is referring to the Washington, DC, district of Columbia, United States, created by and under the authority of the Constitution. The use of the words "subject to its jurisdiction" should tell you that a "citizen" is under the authority, and corporate/person property, of the United States.

For most natural persons this is their first contact with the Federal Government. Pretty stupid on our part not to know this, but very slick on the part of the lawyers and politicians who would bind you into slavery. Relax, this is the nexus point, the loophole that will save your butt. Now things will get worse before they get better.

Probably your second contact with the Federal Government was when you voluntarily turned over your Social Security number, when asked by your Employer to fill out a W-4. Filling out the form, you entered your number of dependents and skipped past item 7:

"I claim exemption from withholding for (year) and I certify that I meet **BOTH** of the following conditions for exemption.

- Last year I had a right to a refund of All Federal income tax withheld because I had No tax liability AND
- This year I expect a refund of ALL Federal income tax withheld because I expect to have NO tax liability.
- If you meet both conditions, write 'EXEMPT' here"

Without exception, everywhere you look in the IRS Code and every single Federal Court case dealing with taxation, what is being taxed are corporations/persons and property of the government, engaged in a taxable activity. The activity you and your employer are engaged in, according to your Individual Master File, has something to do with source that is taxable such as alcohol, tobacco, or firearms. These are the only sources that the Federal government can tax within the states, according to the Constitution. And get this; you are engaged in one of these source activities generally in Puerto Rico, Guam, or the Virgin Islands.

To verify that you have income from a taxable source and that you are engaged in a taxable activity in Puerto Rico, Guam, or the Virgin Islands, use the Freedom of Information Act (FOIA) to get a copy of your Individual Master file from the IRS. You can get this letter from:

<http://famguardian.org>

1 Look in the "Sovereignty Forms and Instructions" section.

#### 2 **3.17.4 The President's Role In Income Taxation**

3 Presidents since Abraham Lincoln have been involved in the deception that is the income tax. William Howard Taft played  
4 a big part in proposing an income tax amendment. He elevated Justice White to Chief Justice. This was the first time a sitting  
5 Justice had been elevated to Chief Justice. Taft would be named Chief Justice upon White's death. The man who figured out  
6 the secret of the Sixteenth Amendment, Charles Evans Hughes was made Chief Justice when Taft died in 1930. I can't  
7 imagine a tighter lock on the law than what I just described. Are we going to have fun looking at those good old boys? White  
8 and Taft died in harness. Hughes retired in 1941 and died in 1948.

9 The President appoints the United States Attorney General and that office has for years falsely claimed in its prosecutions of  
10 persons who have refused to file or have allegedly filed false tax returns, that the Sixteenth Amendment to the Constitution  
11 gave Congress the power to tax personal income. The U.S. Attorney General's Office also falsely claims personal income tax  
12 is a direct tax that does not have to be apportioned. We know based on Supreme Court case history that the only tax referred  
13 to in the Sixteenth Amendment is an excise tax on income that does not have to be apportioned.

14 That claim can be refuted by simply looking at the Sixteenth Amendment and asking yourself, "What kind of tax does not  
15 have to be apportioned? Yes, that's right an indirect tax. The United States Supreme Court has said that the purpose of the  
16 Sixteenth Amendment was for the courts to forever keep the income tax in the category of an excise tax. It does not add to  
17 the power of Congress to tax, it does not amend, change or eliminate any protection in the Constitution. I submit that the  
18 Sixteenth Amendment has been used since its purported ratification to frighten us into believing that Congress was given a  
19 special power to tax our incomes without having to specifically describe a taxable harmful activity, identify an activity in  
20 need of regulation, or set the total amount of direct tax to be apportioned among the states.

21 Big government was created out of this mythical tax. To this day no one has found the subject of an excise called an income  
22 tax, that would apply to most individuals.

23 The Internal Revenue Code is full of excise taxes. There are taxes on making airline flights, telephone calls, fishing rods,  
24 tires, liquor, fuels, cigars, snuff, outboard motors, bows and arrows, gas guzzler cars etc. What you won't find is a tax on the  
25 activities that produce your income. Lawful taxation of harmful activities and regulated industries helps to secure our Rights  
26 to Life, Liberty and the Pursuit of Happiness. Taxation of our God given rights reduces us to slavery. Before the income tax,  
27 we were free to choose whether or not we would be taxed, and taxation of people was consensual and voluntary. The law  
28 was clear. After 1913, big government began its cancerous growth. The "income tax" grew by fraud, intimidation and deceit,  
29 and President Taft started this fraud going in 1909 by proposing the Sixteenth Amendment, and its cancerous growth has  
30 gone unabated and unchecked since then. Making you believe that you owe a tax and then coercing you to pay it by  
31 threatening to put you in prison if you don't is real tax fraud. A free people must consent to their taxation or they are a  
32 conquered people.

#### 33 **3.17.5 A Historical Perspective on Income Taxes**

34 The Declaration of Independence is the first and most important part of our organic law. This great document firmly  
35 establishes the source of our individual rights and sovereignty. Our only Duty, as a people, is to throw off Government that,  
36 "evinces a Design to reduce them under absolute Despotism." We owe no other duty to government and our Constitution  
37 limits government in order to maintain our freedom. Limiting government power is the key to remaining free.

38 National taxation is limited to four taxes: direct, imposts, duties and excises. No national tax is proper that cannot be made  
39 to fit in the mold of the four taxes. The Sixteenth Amendment is a further limitation on the power of Congress to tax. After  
40 the ratification of the amendment, an "income tax" cannot be a direct tax. If an "income tax" is to be imposed among the  
41 several states it must be in the form of the remaining three, indirect taxes, or one of them. The excise is the likely choice,  
42 since it regularly produces income of some kind.

43 The King of Great Britain caused the dissolution of the political connection with the United States of America by his many  
44 injurious acts including one, "For imposing Taxes on us without our Consent." The Congress created an "income tax" that  
45 does not fit within the mold established by the Constitution. Such a tax may only be imposed upon us *with* our consent. The  
46 voluntary yielding to the will of the proposition of another is necessary for valid consent. This is called "informed consent".  
47 Such consent is an act of reason, attended by due deliberation and exercised only after full consideration of the values on

1 each side. The blind execution of tax agreements (W-4 and 1040) under penalty of perjury, without sufficient tax knowledge  
 2 and under duress is an act of negligence and cowardice when committed by a Citizen. It is also an act of duress. Under  
 3 equitable principles, any such act committed without informed consent while under duress becomes the act of the legal person  
 4 instituting the duress. Since the duress originates from the unlawful activities of the Internal Revenue Service to illegally  
 5 enforce the Internal Revenue Code, then if anyone is prosecuted for any act resulting from that duress, it would have to be  
 6 the IRS or more particularly, the appointed officers working within the IRS who are *individually* liable for the unlawful acts  
 7 of the people who work below them. The pronouncements of the U.S. Congress below establish *exactly* how this conspiracy  
 8 against the rights of Americans are perpetrated by such “communists” and “tyrants” below:

9 [TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.](#)  
 10 [Sec. 841. - Findings and declarations of fact](#)

11 *The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ,*  
 12 *and a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a*  
 13 *conspiracy to overthrow the [de jure] Government of the United States [and replace it with a de facto*  
 14 *government ruled by the judiciary]. It constitutes an authoritarian dictatorship [IRS, DOJ, and corrupted*  
 15 *federal judiciary in collusion] within a [constitutional] republic, demanding for itself the rights and*  
 16 *[FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article 1,*  
 17 *Section 9, Clause 8 of the Constitution] accorded to political parties, but denying to all others the liberties [Bill*  
 18 *of Rights] guaranteed by the Constitution [Form #10.002]. Unlike political parties, which evolve their policies*  
 19 *and programs through public means, by the reconciliation of a wide variety of individual views, and submit those*  
 20 *policies and programs to the electorate at large for approval or disapproval, the policies and programs of the*  
 21 *Communist Party are secretly [by corrupt judges and the IRS in complete disregard of, Form #05.014, the*  
 22 *tax franchise "codes", Form #05.001] prescribed for it by the foreign leaders of the world Communist movement*  
 23 *[the IRS and Federal Reserve]. Its members [the Congress, which was terrorized to do IRS bidding by the*  
 24 *framing of Congressman Traficant] have no part in determining its goals, and are not permitted to voice dissent*  
 25 *to party objectives. Unlike members of political parties, members of the Communist Party are recruited for*  
 26 *indoctrination [in the public FOOL system by homosexuals, liberals, and socialists] with respect to its objectives*  
 27 *and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into*  
 28 *action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the*  
 29 *Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory*  
 30 *limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020]. The Communist*  
 31 *Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful*  
 32 *political means. The peril inherent in its operation arises not from its numbers, but from its failure to*  
 33 *acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the*  
 34 *present constitutional Government of the United States ultimately must be brought to ruin by any available*  
 35 *means, including resort to;force and violence [or using income taxes]. Holding that doctrine, its role as the*  
 36 *agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders*  
 37 *its existence a clear present and continuing danger to the security of the United States. It is the means*  
 38 *whereby individuals are seduced [illegally KIDNAPPED via identity theft!, Form #05.046] into the service*  
 39 *of the world Communist movement [using FALSE information returns and other PERJURIOUS*  
 40 *government forms, Form #04.001], trained to do its bidding [by FALSE government publications and*  
 41 *statements that the government is not accountable for the accuracy of, Form #05.007], and directed and*  
 42 *controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030] in the*  
 43 *conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be*  
 44 *outlawed*