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"Taxes are the sinews of the state." -- Cicero

"A fine is a tax for doing something wrong. A tax is a fine for doing something right." -- Unknown

"To steal from one person is theft. To steal from many is taxation." -- Jeff Daiell

"It's getting so that children have to be educated to realize that 'Damn' and 'Taxes' are two separate words." -- Unknown

"Where there's a will, there's an Inheritance Tax." -- Unknown

"For every benefit you receive a tax is levied." -- Ralph Waldo Emerson

"Bachelors should be heavily taxed. It is not fair that some men should be happier than others." -- Oscar Wilde

"They want you to be worn down by taxes until you are dependent and helpless. When you subsidize poverty and failure, you get more of both." -- James Dale Davidson

"A wise man can see more from the bottom of a well than a fool can from a mountain top."-- Unknown

There's a very good reason why the title to this chapter uses the word "liable". The fact is, there is NO LAW in the entire 9,500 page Internal Revenue Code, which makes a natural person *liable* for the payment of Subtitle A income taxes, or Subtitle C Employment taxes. There has also *never been* a claim by anyone in the legal profession or the IRS that contradicts this either that we are aware of. The IRS and the Department of Justice are speechless when you bring up this issue in court in front of a jury by asking:

"I am a law-abiding American Citizen who wants to pay what the law says I owe. Please show me the law that makes me liable for Subtitles A through C income taxes and I will gladly pay what you say I owe. I have studied this issue for several years now and read extensively and searched electronically the entire Internal Revenue Code and Treasury Regulations and couldn't find a law that makes me liable."

This tactic is very effective with juries and against the IRS. We'll explain in this chapter the many reasons why we aren't liable and the many different angles people have come up with over the years that show why we aren't liable which are also very convincing to juries. We have scoured just about every tax book, every IRS publication, the law, and went to every seminar there is to come up with the content of this chapter to make the arguments used authoritative, complete, and detailed. If we missed anything or are in error, please let us know what you found out so we can *all* benefit from your discovery!

5.1 Introduction to Federal Taxation

Below is a list of the *only* constitutional and lawful taxes in the United States of America as derived right from the Constitution itself:

Table 5-1: What can be Legally Taxed by the Federal Government?

Class of Tax	*Nature of Tax*	*Subject of Tax*	*Constitutional Requirement*
Indirect Taxes	Excises Duties Imposts	Taxable activities Taxable events Taxable incidents Taxable occasions	* Must be geographically uniform

Direct Taxes	Capitation taxes	People	* Must be apportioned among the states
	Property taxes	Property (which property?) (Be specific.)	
* see ***Penn Mutual Indemnity Co. v. C.I.R.*** 277 F. 2d 16 at 19-20 (3rd Cir. 1960) ***Seward Machine Co. v. Davis***, 301 U.S. 548, at 581-582 (1937)			

NOTES:

1. Direct taxes are on biological people, which are called "natural persons" in the legal field.
2. Indirect taxes are on legal fictions, such as businesses, corporations, and partnerships.

There are no other types of legal or constitutional taxes, and the supreme Court agreed with this in its findings in ***Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895)***:

> *And although there have been, from time to time, intimations that there might be some tax which was not a direct tax, nor included under the words 'duties, imports, and excises,' such a tax, for more than 100 years of national existence, has as yet remained undiscovered, notwithstanding the stress of particular circumstances has invited thorough investigation into sources of revenue. [157 U.S. 429, 558]*

Property taxes can be on tangibles or intangibles. In order to have a *situs* for taxation (a basis for imposing the tax), tangible property (physical property) must reside within the territorial jurisdiction of the taxing authority, and intangibles (patents, copyrights, receipts, etc) must be subject to choses in action within the territorial jurisdiction of the taxing authority. See ***Wheeling Steel Corp. v. Fox***, 298 U.S. 193 (1936).

After reading this, you might then ask:

- What is the ***subject of*** the so-called "income" tax?
- In which section, if any, of the Internal Revenue Code (26 U.S.C.) does it create a liability on a particular subject?
- If you can't find an answer which meets the constitutional requirements identified above, don't feel alone. Neither can anyone else find a ***subject of*** an unapportioned tax which should apply to individuals.
- If the ***subject of the*** tax cannot be found in the IRS Code which meets the constitutional requirement for the imposition of a type of tax, how can it be proved anyone is subject to or liable for any so-called "income" tax?

> *The income tax is, therefore, not a tax on income as such. It is an excise with respect to certain activities and privileges, measured by reference to the income which they produce. The income is not the subject of the tax, it is the basis for determining the amount of tax.* **House Congressional Record, March 27, 1943, page 2580.**

5.1.1 What type of Tax Are You Paying the IRS--Direct or Indirect?

There are still only two types of taxes allowed under the Constitution, direct and indirect. Here, as they say, is the sixty-four dollar question. When you file Form 1040, aside from whether or not it's the correct form for an American working outside the federal zone to use, you're certainly not paying an indirect excise tax for the privilege of conducting your private profession, are you? Wouldn't your employer be paying that instead of you?

Aren't you in fact paying a *direct tax* based upon the amount of money you receive each year, according to the tax tables? But that's not an indirect tax based upon the source of your income, is it? After all, even the 16th Amendment states:

> *".. a tax on income..from whatever source derived..."*

doesn't it? According to the Supreme Court in the case of ***Pollack v. Farmer's Loan and Trust Company*** (157 U.S. 429, 158 U.S. 601), the money you receive in exchange for your labor is your personal property and cannot be directly taxed.

Maybe your State is sending you a bill each year for your share of your State's share of a constitutionally apportioned direct tax? They aren't? So what are you paying?

Aren't you in fact paying a direct tax that has not been apportioned? It certainly looks that way, doesn't it? How does the IRS get away with this? Why don't the federal judges speak up? Is it possible that the high officials of the IRS have been so busy trying to convict everyone who objects to their gross violation of the Constitution that they haven't had time to read the Brushaber and other still standing Supreme Court Decisions?

Or could they all be victims of outcome based education and can't understand these court decisions?

Or do you think that perhaps the current and former Secretaries of the Treasury and Commissioners of Internal Revenue have read these decisions and just ignore them--and hope you won't notice, or at least not object if you do?

Amazingly, the truth is that the IRS has never rebutted the *Brushaber or Stanton* decisions or any subsequent decisions of the Supreme Court, either. Instead, in trying to sustain the income tax, the IRS has completely ignored these decisions and only quoted from District and Circuit court cases that said what they wanted and *ignored the rulings of the Supreme Court*, in direct violation of their own Internal Revenue Manual!

The founding fathers understood the distinction between direct and indirect taxes. Here is what they said in the Federalist Papers that were the foundation of our Constitution. At the writing of these papers, the Congress had already ratified the Constitution and now ratification was put for vote before the American people. The Papers were written to encourage ratification of the new United States Constitution by the American people to replace the Articles of Confederation. The Papers convey very simply and exactly what the authors, Alexander Hamilton, James Madison, and John Jay explained to the American people about the meaning and content of the constitution for the united States of America:

> ***15 FP § 6:*** *"The existing Confederation's great and fundamental defect is the principle of LEGISLATION for STATES in their COLLECTIVE CAPACITIES rather than for the INDIVIDUALS living in the States. Although this principle does not apply to all the powers delegated to the Union, it pervades those on which the effectiveness of the rest depends.* ***Except for the rule of apportionment, the United States has indefinite discretion to requisition men and money. But it has no authority to raise either directly from individual citizens of America."*** *(Emph added).*

5.1.2 SURPRISE!: The Income Tax is a MANDATORY INDIRECT EXCISE Tax or a VOLUNTARY DIRECT DONATION

The supreme Court has ruled that the income tax is, and always has been, an indirect *excise tax*. With or without the Sixteenth Amendment, this HAS ALWAYS been the case. Because *direct* taxes are taxes on *natural persons* (biological people), then indirect taxes are taxes on other than real people! Therefore, the income tax can't, by definition, apply to you and me as a person.

Excise taxes are taxes on privileges granted by the government ONLY to artificial entities other than natural persons, such as corporations, partnerships, and elected or appointed political officials of the United States government. Excise taxes are also commonly referred to in legal circles as "privilege taxes". Here is the definition of "excise tax" from Black's Law Dictionary, Sixth Edition, on page 563:

> *"**excise tax**: A tax imposed on the performance of an act, the engaging in an occupation, or the enjoyment of a **privilege**. Rapa v. Haines, Ohio Comm.Pl., 101 N.E.2d 733, 735. A tax on the manufacture, sale, or use of goods or on the carrying on of an occupation or activity, or a tax on the transfer of property.* ***In current usage the term has been extended to include various license fees and practically every internal revenue tax except the income tax*** *(e.g. federal alcohol and tobacco excise taxes, I.R.C. §5001 et seq.)*

Did you notice the phrase: "*In current usage the term has been extended to include various license fees and practically every internal revenue tax* ***EXCEPT THE INCOME TAX.***" Well then we should be asking ourselves WHAT KIND OF TAX IS THE INCOME TAX from among the five constitutional taxes listed in table 5-1?

Furthermore, that last part of the definition from above "*or a tax on the transfer of property*" is an embellishment and a self-serving distortion of the definition of "excise" by our dishonest government that was not part of the original constitution, or any supreme court ruling before about 1900. The addition of that phrase is where most courts think they get their authority to impose income taxes on Natural Born Persons, and it was not part of the intent of the founding fathers, but is an insidious addition by the unethical legal profession and politicians to illegally extend the jurisdiction of our the national government to impose income taxes against Natural Born Persons. We cover this subject in excruciating detail in section 6.6 entitled "Judicial Conspiracy to Protect the Income Tax: The Changing Definition of 'Direct, Indirect, and Excise Taxes'". To pique your interest at this point, below is the definition of "excises" from <u>*Bouvier's Law Dictionary*</u>, Revised 6th Edition, 1856, which was the law dictionary used by the U.S. supreme Court back in 1856:

> *EXCISES. This word is used to signify an inland imposition, paid sometimes upon the consumption of the commodity, and frequently upon the retail sale. 1 Bl. Com. 318; 1 Tuck. Bl. Com. Appx. 341; Story, Const. Sec. 950.*

Do you see "transfer of property" anywhere here? You will note that the definition from Black's Law dictionary would, on the surface, appear to create the impression that 26 U.S.C. Subtitle A income taxes ***<u>are NOT excise taxes</u>***, and this is true although misleading.

As you will learn by reading section 10.1, where we talk about government propaganda and Congressional Research Service Report 97-59A, the U.S. Congress calls the income tax an <u>*indirect excise tax*</u>. To make things even more confusing, that same chapter, in section 10.2.4.5, is where the IRS contends that the Sixteenth Amendment authorizes a <u>*direct, unapportioned tax*</u>, as ruled by the circuit courts. So let's summarize all the confusing and contradictory propaganda and claims of the various legal authorities and sources below for your benefit to help clarify things:

Table 5-2: Definitions of the Income Tax from Various Sources

Source of definition	***Report or case quoted***	***Definition of Subtitle A through C income tax***
U.S. Supreme Court	***Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)***	Indirect excise tax: *"..by the previous ruling it was settled that* ***the provisions of the Sixteenth Amendment <u>conferred no new power of taxation</u> 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 <u>indirect taxation</u> 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. "*
U.S. Congress	Congressional Research Service report 97-59A section 10.1	Indirect excise tax
Internal Revenue Service	"The Truth About Frivolous Income Tax Arguments" Report, Section 10.2.4.5	Direct, unapportioned tax on individuals
Federal Circuit courts	***U.S. v. Collins***, 920 F.2d 619 (1990)	Direct, unapportioned tax on individuals

Source of definition	*Report or case quoted*	*Definition of Subtitle A through C income tax*
	and several others in each circuit.	
Blacks' Law Dictionary, Sixth edition	Definition of "excise tax", page 563	Says income taxes *aren't* excise taxes but won't positively say what they ***are***.

The first thing you notice about the table above is that the IRS definition of income taxes as being direct taxes relies exclusively on Circuit court rulings but completely ignores and overrides the rulings of the Supreme Court on this subject! However, the IRS' own Internal Revenue Manual says the following about this matter:

> *"Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *Certain court cases lend more weight to a position than others.* ***A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.*** *Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*
> *[IRM, 4.10.7.2.9.8 (05/14/99)]*

What this means is that the IRS is obligated to quote the Supreme Court in all cases and ignore the lower courts in determining general tax liabilities of all Americans. The Supreme Court is the *only* court whose rulings can universally apply to all "taxpayers" (meaning all Americans). All other rulings of lower courts apply only to specific cases and not generally to all Americans. Therefore, we must conclude that the Congressional and Supreme Court views are to take precedent and that the income tax, when it is an enforced tax, is an *indirect excise tax*. *The IRS pushes deliberate misinformation on this subject only because it benefits them financially to do so. This amounts to a clear conflict of interest, and a violation of their own IRM.* Now if the IRS and the Congress, who are in two different branches of the same federal government can't even agree on what the income tax is, then what are us Americans supposed to think? Don't you think this creates enough confusion in the minds of law abiding Americans such that the Internal Revenue Code or at least the enforcement of it, ought to be declared "void for vagueness" as we point out later in section 5.10? We do! This seeming contradiction also provides compelling evidence of the existence of a "judicial conspiracy to protect the income tax" at the circuit court level which we thoroughly explain later in section 6.6.

To conclude our in-depth investigation, here is our definition of what kind of "taxes" Subtitles A through C income taxes are:

> *If 26 U.S.C. Subtitle A Income Taxes are FORCED on artificial entities like "persons" (in the legal sense, which aren't the same as "natural born persons") through distraint (penalties, interest, etc), then they are* ***indirect excise taxes****. If they are applied to natural persons, then they can only be VOLUNTARY, and they are most properly called VOLUNTARY DIRECT DONATIONS and not taxes ("taxes" must be imposed through force or distraint to be called "taxes", otherwise they are "donations") collected by the Internal Revenue Service from Americans. The Natural Born Citizen has every legal right at any time to stop paying voluntary donations, and if the government uses distraint or force or penalties or coercion of any kind to get the Natural Born Citizen to continue paying, then they are acting outside of the law and exceeding their authority.*

We believe the above explains why Black's Law Dictionary says under the definition of the term "excise tax":

> *"**excise tax**: In current usage the term has been extended to include various license fees and practically every internal revenue tax **EXCEPT THE INCOME TAX.**".*

What they are saying is that income taxes are really ***voluntary donations***, but because the authors of the dictionary (who were lawyers) don't want to undermine "voluntary compliance" with the tax laws, they can't be honest and just come out and say it, so they define what it *isn't* and leave it up to you to figure out what it *is!* We even tried looking up the term "income tax" in that same Black's Law dictionary and they don't classify it as either a "direct tax" or an "indirect excise" there either. Sneaky, huh? That's the way lawyers and the legal profession work, and it is precisely this kind of twisted deceit that is behind why we recommend defending yourself primarily and only relying on lawyers as legal "coaches" when you get tripped up. See section 6.7 for more evidence of scandalous games like this by the legal profession. The preceding discussion helps to explain some of the following statements:

> *"**Our tax system is based upon voluntary assessment and payment, not upon distraint**".*
>
> ***-Flora v. United States, 362 U.S. 145 (1959)***

> *"Our tax system is based on individual self-assessment and voluntary compliance".*
>
> ***-Mortimer Caplin,** Internal Revenue Audit Manual (1975)*

> *"Let me point this out now. Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as night and day. Consequently, your same rules just will not apply...".*
>
> ***-Dwight E. Avis**, former head of the Alcohol and Tobacco Tax Division of the IRS, testifying before a House Ways and Means subcommittee in 1953*

> *"The purpose of the IRS is to collect the proper amount of tax revenues at the least cost to the public, and in a manner that warrants the highest degree of public confidence in our integrity, efficiency and fairness. To achieve that purpose, we will encourage and achieve the highest possible degree of voluntary compliance in accordance with the tax laws and regulations...".*
>
> ***-Internal Revenue Manual,** Chapter 1100, section 1111.1*

This raises a lot of questions indeed! Lets try to answer a few. Here is the definition of the word "tax" from Black's Law Dictionary, 6th Edition, page 1457:

> *"Tax: A charge by the government on the income of an individual, corporation, or trust, as well as the value of an estate or gift. The objective in assessing the tax is to generate revenue to be used for the needs of the public.*
>
> *A pecuniary [relating to money] burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. In re Mytinger, D.C.Tex. 31 F.Supp. 977,978,979.* ***Essential characteristics of a tax are that it is NOT A VOLUNTARY PAYMENT OR DONATION, BUT AN ENFORCED CONTRIBUTION, EXACTED PURSUANT TO LEGISLATIVE AUTHORITY.*** *Michigan Employment Sec. Commission v. Patt, 4 Mich.App. 228, 144 N.W.2d 663, 665. ..."*

For clarity, we'd like to add to the end of the above definition: "…exacted pursuant to legislative authority *AND the operation of statutory law consistent with the U.S. constitution.*" We say this because if the "legislative authority" to tax does not ultimately derive from the constitution, then it is null and void because all powers not delegated to the government by the Sovereign People are reserved to the people (per the Tenth Amendment and Article VI, Clause 2 of the Constitution)[49], which is the case with income taxes on Natural Born Persons.

Notice that *you can't call it a "tax" if it is "voluntary"!* You have to call it a "donation", as per Black's Law Dictionary, 6th Edition, page 487:

> *"Donation: A gift. A transfer of the title of property to one who receives it without paying for it. The act by which the owner of a thing* ***voluntarily transfers*** *the title and possession of the same from himself to another person, without any consideration."*
>
> *"Voluntary: (Black's Law Dictionary, 6th Edition, page 1575) "****Unconstrained by interference; unimpelled by another's influence; spontaneous; acting of oneself.*** *Coker v. State, 199 Ga. 20, 33 S.E.2d 171, 174. Done by design or intention.* ***Proceeding from the free and unrestrained will of the person. Produced in or by an act of choice. Resulting from free choice, without compulsion or solicitation.*** *The word, especially in statutes, often implies knowledge of essential facts. Without valuable consideration; gratuitous, as a voluntary conveyance. Also, having a merely nominal consideration; as, a voluntary deed."*

We then have to go back to table 5-1 at the beginning of this chapter and ask ourselves:

> *"What kind of constitutional tax is the income tax?"*

As you read through most of the federal appellate and district court cases dealing with income tax, they take great pains NOT to identify which of the five constitutional taxes the income tax is from Table 5-1, because then their craftily disguised deception would be exposed. If this thing our dishonest government calls "income tax" really serves a dual purpose, as a *voluntary donation* AND a *tax*, then integrity and honesty by our government demands that we create TWO subtitles to 26 U.S.C., one in subtitle A for *enforced* excise taxes on income and a new subtitle L for *donations*, with the audience for each tax or donation *clearly and unambiguously identified*. But then if people knew the tax was voluntary, they wouldn't pay it anyway, and would litigate their rights *not* to pay it, which is exactly how income taxes on Natural Born Persons were thrown out by the Supreme Court the first time in the case of ***Pollock v. Farmer's Loan and Trust Company,*** 157 U.S. 429, 158 U.S. 601 (1895). Instead, our government dishonestly calls "income taxes" a "tax" rather than a donation by creating this artificial concept called a "person" and throwing businesses in with Natural Born Persons to confuse things. This is nothing but a means of indirection and deception so that Natural Born Sovereign Citizens who don't have to pay the tax will pay it.

QUESTION FOR DOUBTERS: If I.R.C. Subtitles A through C income taxes are NOT excise taxes, then why are the ONLY activities and persons taxed in receipt of privileges or associated mainly with foreign commerce? Here are just a few examples of those privileges an entity or person must be in receipt of in order to be liable for the income tax, and we'd like to emphasize that if your situation isn't in this list, then you aren't liable for the income tax!:

1. They must be an elected or appointed officer of the U.S. government in receipt of the privileges of public office:
   1.1. 26 CFR § 301.6671-1 Rules for application of assessable penalties: "(b) Person defined. For purposes of subchapter B of chapter 68, **the term ``person'' 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**

[49] See the Tenth Amendment to the U.S. Constitution, which says: "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." See also U.S. Constitution, Article VI, Clause 2, which says: "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."

in respect of which the violation occurs."

1.2. 26 CFR § 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**."

1.3. 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.

1.4. 8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267: **Employee**: "The term employee **specifically includes** officers and employees **whether elected or appointed**, of the United States, a state, territory, or political subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing."

1.5. **Office** (Black's Law Dictionary, Sixth Edition, page 1082): A right, and correspondent duty, to exercise a public trust. A public charge or employment. An employment on behalf of the government in any station or public trust, not merely transient, occasional, or incidental. The most frequent occasions to use the word arise with reference to a duty and power conferred on an individual by the government; and, when this is the connection, "public office" is a usual and more discriminating expression. But a power and duty may exist without immediate grant from government, and may be properly called an "office;" as the office of executor. Here the individual acts towards legatees in performance of a duty, and in exercise of a power not derived from their consent, but devolved on him by an authority which quoad hoc is superior....

1.6. **Appointment** (Black's Law Dictionary, Sixth Edition, page 99): The designation of a person, by the person or persons having authority therefor, to discharge the duties of some office or trust. In re Nicholson's Estate, 104 Colo. 561, 93 P.2d 880, 884…

> *Office or public function*. The selection or designation of a person, by the person or persons having authority therefor, to fill an office or public function and discharge the duties of the same. The term "appointment" is to be distinguished from "election." "Election" to office usually refers to vote of people, whereas "appointment" relates to designation by some individual or group. Board of Education of Boyle County v. McChesney, 235 Ky. 692, 32 S.W.2d 26, 27.

1.7. **Public Office, pursuant to Black's Law Dictionary, Abridged 6th Edition, p. 1230 means:**

"Essential characteristics of a '**public office**' are:
(1) Authority conferred by law,
(2) Fixed tenure of office, and
(3) Power to exercise some of the sovereign functions **of government**.
(4) Key element of such test is that "officer is carrying out a sovereign function'.
(5) Essential elements to establish public position as 'public office' are:
(a) Position must be created by Constitution, legislature, or through authority conferred by legislature.
(b) Portion of sovereign power of government must be delegated to position,
(c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
(d) Duties must be performed independently without control of superior power other than law, and
(e) Position must have some permanency."

1.8. 26 U.S.C. §6331: Subchapter D-Seizure of Property for Collection of Taxes

Section 6331 Levy and Distraint.

Section 6331(a) Authority of Secretary. - If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334

> *(9)) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official of the United States, District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer of such officer, employee or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*
>
> You will note that the above describes the ONLY persons upon which a levy or garnishment may be executed, and this activity applies ONLY to Title 27 Alcohol, Tobacco, and Firearms and NOT to Subtitle A income taxes, as there are no implementing regulations written by the Secretary of the Treasury that would apply the above section to Subtitle A Income Taxes.

2. Taxable sources: All taxable sources identified in 26 CFR § 1.861-8(f)(1) are either privileged sources or involved with foreign commerce (see the Constitution, Art. 1, Section 8, Clause 3, which authorizes regulating foreign trade). The I.R.C. Subtitle A income tax is a tax on the source as measured by income, NOT a tax on income. The taxable sources identified in 26 CFR § 1.861-8(f)(1) of the treasury regulations apply to ALL income, both from *within* the United States (federal territories) and *without* and include:
   - 2.1. Domestic International Sales Corporation (DISC) taxable income. Corporations are fictitious entities created by the government and therefore in receipt of government privileges.
   - 2.2. Foreign Sales Corporation (FSC) taxable income. Corporations are fictitious entities created by the government and therefore in receipt of government privileges.
   - 2.3. Nonresident alien individuals and foreign corporations engaged in a trade or business within the United States.

> ***26 U.S.C. §7701(a)26***
>
> ***The term "trade or business" includes the performance of the functions of a public office.***
>
> You will note that holding of a public office is a privilege associated with government service.

   - 2.4. Foreign base company income. These companies operate on U.S. territory/property abroad and are therefore in receipt of government privileges and must pay taxes on that privilege.
   - 2.5. Other operative sections relating to foreign income, including:

> *(vi) **Other operative sections**. The rules provided in this section also apply in determining--*
> *(A) The amount of **foreign** source items…*
> *(B) The amount of **foreign** mineral income…*
> *(C) [Reserved]*
> *(D) The amount of **foreign** oil and gas extraction income…*
> *(E) (deals with **Puerto Rico** tax credits)*
> *(F) (deals with **Puerto Rico** tax credits)*
> *(G) (deals with **Virgin Islands** tax credits)*
> *(H) The income derived from **Guam** by an individual…*
> *(I) (deals with **China Trade Act** corporations)*
> *(J) (deals with **foreign** corporations)*
> *(K) (deals with insurance income of **foreign** corporations)*
> *(L) (deals with countries subject to **international boycott**)*
> *(M) (deals with the **Merchant Marine Act** of 1936)" [26 CFR § 1.861-8(f)(1)]*

Now do you understand? With this remarkable realization in mind, is it any wonder why the IRS won't give you a good straight definition of "voluntary compliance" on its website and tries to intimidate ignorant people into paying income taxes they aren't liable for? They operate on bluff and our own ignorance is how they can continue to victimize us. As one Senator put it:

"In a recent conversation with an official at the Internal Revenue Service, I was amazed when he told me that 'If the taxpayers of this country ever discover that the IRS operates on 90% bluff the entire system will collapse' ".

- Henry Bellmon, *Senator (1969)*

It is precisely this situation that is the reason why we wrote this book: to eliminate the ignorance of Natural Born Sovereign Citizens. Below are just a few citations from U.S. supreme Court Rulings over the years that conclusively demonstrate that income taxes imposed through FORCE or DISTRAINT, are always excise taxes made on privileges, and that DIRECT TAXES on individuals rather than states and implemented through force, compulsion, or duress have always been prohibited by the constitution and therefore must be completely voluntary:

*"**Nothing can be clearer than that what the constitution intended to guard against was the exercise by the general government of the power of directly taxing persons and property within any state through a majority made up from the other states.** It is true that the effect of requiring direct taxes to be apportioned among the states in proportion to their population is necessarily that the amount of taxes on the individual [157 U.S. 429, 583] taxpayer in a state having the taxable subject-matter to a larger extent in proportion to its population than another state has, would be less than in such other state; but this inequality must be held to have been contemplated, and was manifestly designed to operate to restrain the exercise of the power of direct taxation to extraordinary emergencies, and to prevent an attack upon accumulated property by mere force of numbers. "*

...

*"Here I close my opinion. I could not say less in view of questions of such gravity that they go down to the **very foundations of the government**. If the provisions of the Constitution can be set aside by an act of Congress, where is the course of usurpation to end?*

*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."*

Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895).

"[Excise taxes are]...taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue occupations, and upon corporate privileges."

Flint v. Stone Tracy Co., *220 U.S. 107 (1911)*

...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.

...the Amendment demonstrates that no such purpose was intended and on the contrary shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation."

...the [16th] Amendment contains nothing repudiating or challenging the ruling in the ***Pollock*** *Case that the word direct had a broader significance since it embraced also taxes levied directly on personal property because of its ownership, and therefore the Amendment at least impliedly makes such wider significance a part of the Constitution -- a condition which clearly demonstrates that* ***the purpose was not to change the existing interpretation except to the extent necessary to accomplish the result intended, that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself*** *and thereby to take an income tax out of the class of excises, duties and imposts and place it in the class of direct taxes...*

Indeed in the light of the history which we have given and of the decision is the ***Pollock*** *Case and the ground upon which the ruling in that case was based, there is no escape from the Conclusion that* ***the Amendment was drawn for the purpose of doing away for the future with the principle upon which the Pollock Case was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived****, since in express terms the Amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment..."*

Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916)

"[The 16h Amendment]...prohibited the ... 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..."

Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)

"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]

Evens v. Gore, *253 U.S. 245 (1920)*

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)*

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*"The 16th Amendment does not extend the power of taxation to new or excepted subjects...**Neither can the tax be sustained on the person, measured by income. Such a tax would be by nature a capitation rather than an excise.**"*

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

"The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produced the gain is without support either in the language of the Act or in the decisions of the courts construing it. *Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Dept. which either prescribe or permit that compensation for personal services be not taxed as an entirety and be not returned by the individual performing the services. It is to be noted that by the language of the Act* ***it is not salaries, wages or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits and income DERIVED from salaries, wages or compensation for personal service."***

Lucas v. Earl*, 281 U.S. 111 (1930) [Emphasis added]*

If you would like a more thorough treatment of this subject, we refer you to section 6.6.1 et seq. We don't have the space to repeat ourselves here, especially because the treatment is so much more thorough in that section.

One question we get often from our readers about the income tax along these lines is the following:

"I am making my way through your book, The Great IRS Hoax. Anyway it is gigantic, but extremely interesting. I am only a few hundred pages into it. I am confused on one issue though. From what I have read, a natural born citizen of the United States of America is not required by law to pay income tax, but foreigners, DC residents, corporations, etc do. ***What about if you are a natural born citizen of the U.S.A. who works for a corporation, are you required to pay taxes then?"***

Good question! When we work for a corporation (e.g. a corporation registered in the District of Columbia *only*), *the corporation's income* is taxable by the government that granted the privilege of its existence but not by other governments. For instance, in order to be liable for federal corporate income taxes, a corporation must have been incorporated and have a physical presence in the District of Columbia, a federal territory, or other part of the federal zone. If the corporation is a *state* corporation, then it is liable to pay income taxes on its earnings to the *state* that granted its charter to exist, but not to the federal government.

But what about the people working for the state-chartered corporation? As we say later in this chapter, in section 5.6.1, *wages are not taxable*, unless they are the wages of elected or appointed political officials of the United States government (see the definition of employee in 26 U.S.C. Section 7701), so it doesn't matter who we work for as long as it isn't the U.S. government for federal taxes. The people working for the corporation are therefore *not* liable for income taxes on wages to either the state or federal government. The corporation in this case is the *direct* recipient of government privileges, but the employees of the corporation are *indirect* recipients of these privileges through the wages they receive. If the company is employee owned and the employees get stock options and there is appreciation on either their stock or the options, then the employees have a realized gain or profit that is "unearned income" from the appreciation on the corporate stock. This profit or appreciation is a direct result of their labor but is "unearned income" NOT considered part of their wages. If they were a corporation in receipt of these earnings, then they could be liable for income tax on such profit, but once again, they can only be taxed as a natural born person if the VOLUNTEER, because the constitution prohibits DIRECT TAXES on individuals that are not voluntary. Only STATES can be taxed directly, and not the individuals in them.

What about licenses to pursue certain occupations? What kinds of licenses can be taxed? The only licenses subject to income taxes are those coming under 27 U.S.C., which is for Alcohol, Tobacco, and Firearms. Receipt of any other occupational license or government privilege, so far as we know, *does not* make one liable for the payment of 26 U.S.C. Subtitles A through C personal income taxes. Here is what one Oregon court said about privileges as they pertain to natural born persons:

> *"The individual, unlike the corporation,* ***cannot be taxed for the mere privilege of existing****. The corporation is an artificial entity which owes its existence and charter power to the State, but the individual's right to live and own property are natural rights for the enjoyment of which* ***an excise cannot be imposed.****"* ***Redfield v. Fisher****, 292 Oregon 814, 817*

In summary, what the federal government did to create the income tax is pass a municipal donation program that only applies and is only legal within the District of Columbia and fraudulently call it a "tax". Then they fooled everyone throughout the rest of the country into thinking the "tax" applied to them without telling these other people that they weren't liable. They then tried to illegally enforce the "tax" outside of their territorial jurisdiction and outside of the federal zone and met with little resistance because of the relative legal ignorance of most people. The legal profession conspired with them in this extortion because doing so would increase their revenues, power, and control over the society. In the process, they committed a constructive fraud, but the corrupt federal courts let them get away with it because their salaries were paid by the money they were extorting. The cite below from the U.S. Supreme Court helps clarify the validity of this approach:

> *"... [Counsel] has contended, that Congress must be considered in two distinct characters. In one character as legislating for the states; in the other, as a local legislature for the district [of Columbia]. In the latter character, it is admitted, the power of levying direct taxes may be exercised; but, it is contended, for district purposes only, in like manner as the legislature of a state may tax the people of a state for state purposes. Without inquiring at present into the soundness of this distinction, its possible influence on the application in this district of the first article of the constitution, and of several of the amendments, may not be altogether unworthy of consideration."* ***Loughborough v. Blake, 18 U.S. 317 (1820)***

To summarize this section then, what you should have learned is that the notion of calling the income tax a "tax" in reality constitutes *fraud* on the part of the federal government. The other part of the fraud is not clarifying what is meant by "United States" or "employee", "trade or business", or 'indirect excise tax" in IRS publications and the Internal Revenue Code. "The big lie" therefore begins with the distortions of our language by the government that deprives us of our liberties as described below.

> *"When words lose their meaning, people will lose their liberty." Confucius, circa 500 B.C.*

5.1.3 The Income Tax: Constitutional or Unconstitutional?

So is the income tax constitutional or unconstitutional? If you're like most people, you probably suspect that its unconstitutional and that Americans pay income taxes in direct violation of the Constitution.

Well, in light of everything I have just told you, the real answer will likely astonish you. If you don't have a headache by now, you may want to go take an aspirin at this point, because it gets worse. Here, as they say, is the "story behind the story."

In spite of the fact that most Americans have never been the withholding agent of a nonresident alien or other foreign entity; in spite of the fact that Americans living and working within the states of the union have never been made liable by Congress for a tax on "income" under subtitle A of the Internal Revenue Code; in spite of the fact that most Americans have been filing Form 1040 every year although it is not a required form for a U.S. citizen to use according to the OMB; in

spite of the fact that most Americans have been paying a direct, unapportioned income tax directly to the IRS in total violation of the Constitution; ***in spite of all this, the federal taxes that Americans have VOLUNTEERED to self-assess are in fact absolutely and 100% constitutional.*** Paying direct income taxes voluntarily is constitutional when citizens are not compelled to do so.

How is this possible? Because the law is limited in its application to what is specifically written and stated. Law is always specific and never generally applied. In real estate the term is "location, location, location".

The first and foremost principle of law is jurisdiction, jurisdiction, jurisdiction. Therefore, the first question to be answer is: where are you? Are you abroad in a foreign country or in a U.S. possession or territory such as Guam or Samoa? Or are you within one of the now 50 states?

In ***Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)*** the high Court stated that, in exercising its constitutional power to make all needful regulations respecting territory belonging to the United States, Congress is not subject to the same constitutional limitations as when legislating for the 50 states.

In ***Downes v. Bidwell,*** 182 U.S. 244 (1901), the Supreme Court stated that constitutional restrictions and limitations were not applicable to the areas, enclaves, territories and possessions over which Congress had exclusive legislative authority--i.e., not the 50 states.

The constitutional protection against direct taxation afforded to Americans ends at the borders of the states of the union and affords no protection within the territories and possessions where Congress has complete and total power to tax. In short-row out past the international limit and Congress has you by the short hairs. But here within the 50 states of the union..you're FREE! (remember the Bible, Matthew 17:24-27?)

So the question where you are is primary. The next question is: who are you? Are you a citizen, or a resident alien or a nonresident alien?

A resident alien is a foreigner who has received permission to stay here for a prolonged period and may be in the process of relocating here permanently and becoming a naturalized citizen. This individual is afforded the same protections as a citizen under the Constitution, the only difference being that he is not eligible to vote.

A nonresident alien could be a French tourist just visiting our country. What if he sold a painting to an American citizen while visiting here? Under no circumstances would he be made liable to pay a tax to the U.S. Government on that transaction. France might tax him under its own laws, but our government would have no jurisdiction.

The next question is what. What were you doing that made you liable for a particular class of taxation? Were you engaged in a privileged excise taxable activity such as the sale, manufacture or distribution or alcohol, tobacco or firearms? Or were you engaged in the exercise of a natural right, such as your right to exchange your labor for compensation?

The next question is when? When were you engaged in the particular activity, because, if you were liable for the particular tax, the rate of taxation may have been different than at another time.

Let's put all this together into a specific example. Let's say you're an American citizen living in the middle of the country, say in Kansas, in 1998. Where are you? In one of the states of the union. Therefore, you fall under the protection of the Constitution.

Who are you? If you have never renounced your citizenship, you're an American Citizen, therefore you cannot be taxed directly by the government under Article 1, Section 2, Clause 3 of the Constitution as we have already seen.

What are you doing? Selling your house, so that's a capital gain, right? Not for you. You're a citizen within the state of Kansas. Congress cannot directly tax the proceeds from the sale of your property.

When did you do this? Sometime during 1998. Was the Constitution in full force and effect? Yes, it's been in full force and effect since the day it was ratified and that included 1998. In other words, the law did not apply to you under these particular, limited circumstances.

However, what if you step outside the restrictions of the law and volunteer to assess yourself a tax you don't owe and volunteer to pay it? Is that unconstitutional? No, of course not. It's called "voluntary compliance" and the IRS thanks you for your generous and willing cooperation.

By volunteering to make a donation to the Treasury, millions of Americans each year manage to do something all by themselves that all the international bankers combined could not accomplish, that is, to prop up paper money as Beardsley Ruml explained. And deep in their hearts, Congress and senior Treasury Department officials must say a silent prayer of thanks to all of those willing to volunteer!

Disregarding whether income taxes on u.S. (note capitalization, and as distinguished from "U.S.** citizens", as described in section 3.11.1.22) Americans living and working in the 50 states are constitutional from the perspective of direct or indirect taxes, there are many other legal reasons why they are unconstitutional if they are forced rather than voluntary. Consider all of the constitutional provisions that are violated by the provisions below as a consequence of compelling U.S.** citizens living and working in the 50 states to involuntarily pay income taxes or file a tax return:

Table 5-3: Summary of Constitutional Reasons Why Income Taxes Cannot Be Compelled or Forced Out of u.S. Citizens

Reason	*Constitutional reference prohibiting this activity*	*Explanation*
IRS routinely searches peoples assets and seizes them without court orders as a part of the collections process	4th Amendment prohibits unreasonable searches and seizure by the government without probable cause and without a warrant	They perform these searches at gun point and without court orders.
Being compelled to file a 1040 tax form and become a witness against oneself is unconstitutional	5th Amendment prohibits individuals from being compelled to be a witness against themselves	IRS forces you, with financial penalties, to sign your 1040 form "under penalty of perjury", and if you refuse to sign, then you are subject to a $500 fine for violation of the "Jurat" amendment and 26 U.S.C. §6702.
Being compelled to pay income taxes is a form of slavery	13th Amendment abolished slavery	Being forced to pay graduated taxes on income is a form of slavery, and that is why the media frequently refers to "tax freedom day" and how it keeps getting later every year.
Tax collections violate due process protections	5th and 14th Amendments requires that citizens cannot be deprived of their property without a court hearing	IRS seizes property without a jury trial and without hearing your case in a federal court.

5.1.4 Brief History of Circuit Court Rulings Which Establish Income Taxes on Citizens outside of the "federal zone" as Illegal "Direct Taxes" or Legal Excise taxes

Before we scare you or confuse you with the following, we wish to emphasize that in the cases cited below, *those cases that contradicted the idea that mandatory income taxes are excise taxes have a common thread, and that thread is that the individuals who ended up having to pay in effect a FORCED DIRECT income tax claimed they were U.S.** citizens, which is a no-no as we emphasize throughout this book*. That is the single thing that got them into most of their trouble. If they had insisted all along that they were nonresident aliens, filed their W-8 form, changed their citizenship status, and filed their "Revocation of Election" (see section 8.5.3.13 as required, then the federal courts would have respected their rights and not tried to assert nonexistent jurisdiction over them to assess federal income taxes.

In 1894, Congress adopted an income tax act which was declared unconstitutional in ***Pollock v. Farmers' Loan & Trust Co.***, 157 U.S. 429, 15 S.Ct. 673, aff. reh., 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 if the tax was apportioned; since this tax was not apportioned, it was found unconstitutional. In an effort to circumvent this decision, the 16th Amendment was proposed by Congress in 1909 and allegedly ratified by the states in 1913. As a result, various opinions arose regarding the legal effect of the amendment. Some factions contended that the 16th Amendment simply eliminated the apportionment requirement for one specific direct tax known as the income tax, while others asserted that the amendment simply withdrew it from the direct tax category and placed the income tax in the indirect, excise tax class. These competing contentions and interpretations were apparently resolved in ***Brushaber v. Union Pacific Railroad Co.***, 240 U.S. 1, 36 S.Ct. 236 (1916).[50] Rather than attempt a determination of what the Court held in this case, it is more important to learn what various courts have subsequently declared *Brushaber* to mean.

A little more than a week after the opinion in *Brushaber*, similar issues were present for decision in ***Stanton v. Baltic Mining Co.***, 240 U.S. 103, 112-13, 36 S.Ct. 278 (1916), which involved the question of whether an inadequate depletion allowance for a mining company constituted a direct tax on the company's property. As to Baltic's contention that "the 16th Amendment authorized only an exceptional direct income tax without apportionment," the Court rejected it by stating that this contention:

> *"... manifestly disregards the fact that by the previous ruling it was settled that the provisions of the 16th 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."*

The Court clearly held that income taxes inherently belonged to the indirect/excise tax class, but had been converted by *Pollock* to direct taxes by considering the source of the income; the 16th Amendment merely banished the rule in *Pollock*. See also ***Tyee Realty Co. v. Anderson***, 240 U.S. 115, 36 S.Ct. 281 (1916), decided the same day.

Subsequently, there was a ruling on the issue in the case of ***William E. Peck and Co. v. Lowe***, 247 U.S. 165, 172-73, 38 S.Ct. 432, 433 (1918), which involved a tax imposed on export earnings:

> *"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 removed 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."*

The federal district courts deviated from these Supreme Court Rulings subsequently as part of a "judicial conspiracy to uphold the income tax" described elsewhere in section 6.6. For instance, in ***Parker v. Commissioner***, 724 F.2d 469, 471 (5th Cir. 1984), the court clearly rejected the contention that income taxes are an excise:

> *"The Supreme Court promptly determined in Brushaber... that the sixteenth amendment provided the needed constitutional basis for the imposition of a direct non-apportioned income tax.*
>
> *"The sixteenth amendment merely eliminates the requirement that the direct income tax be apportioned among the states.*
>
> *"The sixteenth amendment was enacted for the express purpose of providing for a direct income tax."*

[50] In this decision, there is a very lengthy sentence which contains the following phrase: "... by which alone such taxes were removed from the great class of excises, duties and imposts subject to the rule of uniformity, and were placed under the other 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 was used to describe the contention the Court was rejecting, not approving.

In ***Coleman v. Commissioner***, 791 F.2d 68, 70 (7th Cir. 1986), the court held that an argument that this tax was an excise was frivolous on its face ("The power thus long predates the Sixteenth Amendment, which did no more than remove the apportionment requirement...").

In ***United States v. Francisco***, 614 F.2d 617, 619 (8th Cir. 1980), that court declared 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')."*

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 indirect excise tax:

> *"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."*

A direct tax applies to and taxes property while an indirect, excise tax is never imposed on property but usually a business event such as sales; see ***Bromley v. McCaughn***, 280 U.S. 124, 50 S.Ct. 46, 47 (1929).[51] The federal appellate courts which now hold that an income tax is a direct property tax believe that income is property.[52]

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). Even private employment and a profession are considered property; see ***United States v. Briggs***, 514 F.2d 794, 798 (5th Cir. 1975). 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.

5.1.5 The "Elevator Speech" Version of the Federal Income Tax Fraud

Readers commonly ask us:

> *"Your book is great, and is so thorough about analyzing all the issues and providing very compelling evidence and debate to support all your arguments. The trouble is, it's hard to get my relatives and friends interested enough to read your whole large book. Can you give me a short synopsis of the income tax fraud that I could tell someone in a short enough time to communicate the essential elements on a long elevator ride? You know, kind of like the 10 second sound byte version that I can yell off a street corner or put into a short pamphlet? That's about the attention span these days of a media saturated culture, you know, and we have to meet them where they are at!"*

[51] The Court defined these two types of taxes in the following manner: "While taxes levied upon or collected from persons because of their general ownership of property may be taken to be direct.... a tax imposed upon a particular use of property or the exercise of a single power over property incidental to ownership, is an excise which need not be apportioned..."

[52] At least one court has declared that the term "income" is not defined in the Internal Revenue Code; see *United States v. Ballard,* 535 F.2d 400, 404 (8th Cir. 1976).

Below is my attempt to answer this request. It sums up the several hundred pages in this book into one concise brief statement in order to help you get the word out:

> *The federal Congress, knowing that it could not impose a mandatory direct tax on sovereign Citizens because this would violate the constitution, fraudulently ratified the 16th Amendment in 1913 using a lame duck Secretary of State Philander Knox, to make it appear that income taxes applied to every Citizen, when in fact they did not. Then they created a Title 26 Subtitle A income tax that only applied to the District of Columbia and other federal lands and to the elected or appointed persons holding political office in those lands.*
>
> *The federal Congress then passed unlawful and vaguely written income tax statutes in 26 U.S.C. that have appeared to impose a federal income tax on Citizens of the 50 sovereign states since 1913. The Department of the Treasury (and the IRS) has written unlawful and vague regulations to enforce these statutes. The main function of the complexity and shear size of these regulations and statutes is to conceal the truth about the nonliability to pay income taxes of most sovereign Citizens. In substance, the federal income tax is an indirect excise tax that is supposed to be derived ONLY from privileged and licensed activities mostly under 27 U.S.C, but in fact is **illegally** enforced by the IRS from unprivileged "sources" instead of those specifically authorized in 26 CFR 1.861-8(f). Such illegal enforcement by the IRS with endorsement by the federal circuit courts and the legal profession in this fraud has subjected Sovereign State Citizens to financial slavery and unethical involuntary servitude to the federal government. It has created a whole new underclass of underprivileged persons called "U.S. citizens", who have been made into involuntary slaves to their own government by legally trickery instituted with a combination of the Fourteenth Amendment and using confusion over the definition of the term "United States" to illegally expand the jurisdiction of the federal government beyond the original intent of the founding fathers. This indirect excise tax, however, is **ENFORCED by the IRS** as though it were a direct tax, and we know from reading 1:9:4 and 1:2:3 of the Constitution that direct taxes without apportionment are clearly illegal. All such implementing statutes that impose the federal income tax on state Citizens conflict with the Constitution for the United States of America, however, and are consequently null and void from inception.*
>
> *The IRS then made it 'appear' as though citizens in the several states were 'volunteering to donate' to the government and that the income tax imposed is 'voluntary' for citizens of the several states. They had to do this to justify the gross violations of the First, Fourth, and Fifth Amendments that income taxes represent when forced upon people. They did this in the name of two crises, both in World War I and World War II. The income tax imposed during World War II was called the Victory Tax and was entirely voluntary. They maintained compliance by misnaming liability for the income tax using the term "voluntary compliance", which is actually a contradiction in terms designed to create enough fear and "cognitive dissonance" that people would think that compliance was lawfully enforced. In fact, enforcement cannot be coerced because all the enforcement regulations in Subtitle F have no reference in the Parallel Table of Authorities (found in the regulations) back to Subtitles A through C income taxes.*
>
> *In 1961, the congress empowered the IRS to impose penalties on payment of Alcohol, Tobacco, and Firearms taxes (27 U.S.C., see 26 CFR Part 301) and subsequently exceeded its authority by applying these penalties in the enforcement of 26 U.S.C. Subtitle A income taxes, thus creating an impression on the part of Citizens that the tax was mandatory, when in fact it was not. They continued, however, to portray the income tax as "voluntary", which represented a fraud and an oxymoron, because nothing called a 'tax' can be voluntary, according to the legal definition of 'tax'.*
>
> *Some of the implementing and enforcing regulations for the Subtitle F appear to apply penalties in such a way that the law could not be called voluntary, even though the IRS*

has never bothered to clarify that these enforcement regulations do not apply to Subtitle A through C income taxes. All the while, the IRS consistently calls the income tax 'voluntary'. They had to do so, because if they didn't, they would render ALL tax returns invalid because the signatures were submitted under duress (threat of penalty)! The government also has not defined in any of the IRS publications (it's buried deep in the regulations, which very few people read) the point where the 'choice' occurs when we first 'volunteer' for said tax either, presumably because they don't want to help people get out of the tax system. That choice, in fact, occurs when we Elect to be treated as both a resident and a citizen of the United States that is defined in the Internal Revenue Code, section 7701, which is NOT where we in fact live or work. Unclear thinking about our federal citizenship status and the jurisdiction of the U.S. government is what causes us to "volunteer" for this illegal tax. We do this by submitting our first 1040 form rather than the correct 1040NR form. It also occurs on any form where we state that we are 14th Amendment "U.S. citizens", on voter registration, jury summons, military security clearances, driver's licenses, etc. In fact, we are more correctly referred to as "U.S. nationals" under 8 U.S.C. Section 1408 and defined in 8 U.S.C. Section 1401(a)(21) through (a)(22).

*Our fraudulent status as 14th Amendment "U.S. citizens" acts to create an "invisible contract" that destroys the enforcement of the Bill of Rights (the first ten amendments to the Constitution) in the federal courts, by transforming the enforcement of income taxes from that of Common Law and Constitutional Law to that of Equity/Contract Law. The presumption of the existence and applicability of this invisible contract/trust holds so long as we don't rebut it by expatriating from our U.S.** citizenship and our 14th Amendment rights, privileges, and immunities. The burden of proving the existence of our expatriation from this unjust and immoral 'democracy' falls on the Citizen, and not the government, when we present our case in court.*

The government maintains the unjust and usurious tax system mainly by promoting ignorance about the law in the courts, and by judges prohibiting the law from being discussed in the courts. The government has also deliberately created confusion in the minds of Citizens by refusing to properly define their jurisdiction to tax in any of the IRS publications, which hinges in great part, upon the definition of the terms "State" and "United States" found in 26 U.S.C. Sec. 7701. The definition of these terms make it very clear that income taxes only apply to the "federal zone" and U.S. territories. The IRS also perpetuates the ignorance and powerlessness of Citizens by heavy-handed and oppressive enforcement tactics. These tactics violate due process rights and keep people in fear of their own government and without adequate financial (and thereby legal) resources to defend themselves in court or protect their rights, because all their disposable financial resources have been plundered by their dishonest government. Because "U.S. citizens" must pay their taxes owed BEFORE they can contest claims by the IRS, an insidious advantage against personal rights results that amounts to a gross violation of Fourth and Fifth Amendment due process of law in depriving persons of property and liberty. The Congress and the Courts look the other way while they let such abuses happen, because that is where they get their paychecks from. This amounts to a gross conflict of interest which is at the heart of why it may take a revolution to fix this corrupt system.

During the intervening time since 1913, the U.S. supreme Court has maintained a very consistent approach towards the income tax which categorized it as an indirect excise tax only. However, the federal district and circuit courts have, for all intents and purposes, ignored the rulings of the U.S. supreme Court and aided the IRS in illegally enforcing Subtitles A through C income tax on unwilling but ignorant sovereign Citizens of the 50 states while the supreme Court looked the other way and denied writs of certiorari (appeals). They in effect pretended that the mugging and robbery wasn't happening and violated their oath to support and defend the Constitution in the process, for which they should have been tried for treason. These circuit and district federal courts instead have

*contradicted the supreme Court by refusing to call income taxes indirect excise taxes and saying that the 16th amendment simply removed the apportionment requirement, which clearly puts the amendment in irreconcilable conflict with the rest of the constitution and especially the bill of rights. The main proponent of these distortions has been the American Bar Association (ABA), which has a vested interest in broadening the application of the income tax over sovereign Citizens in order to put more assets at risk and thereby create more litigation and revenues for lawyers. Remember that lawyers dominate ALL THREE branches of the U.S. government and they therefore have a monopoly over **in**justice in this country that dwarfs the Microsoft monopoly over software. These same (ABA infiltrated) courts have also attempted to broaden the applicability of excise taxes over the years to make it appear that they apply to all sovereign Citizens of the 50 states. For instance, they have added a characteristic to "excise tax" that did not exist at the time the Constitution was written, and derives from fiat rather than law. This is called "judicial activism". The courts added to the definition of excise taxes that they are also on "transfers of property" by ANYONE, rather than just the privileged corporations and elected officials originally intended by the founding fathers. This has made what started out as an excise tax on privileged corporate profits and public officials into a direct tax on income of ALL Citizens, which clearly violates the constitution and the intent of the founding fathers.*

5.2 Federal Jurisdiction to Tax

"Giving money and power to government is like giving Whiskey and Car keys to teenage boys"
P.J O'Rourke, Parliament of Whores

After a thorough discussion of the law from chapter 3, you ought to have a good idea the legal background we are operating in. Now let's apply that to the case of a Citizen living and working in the 50 United States who has income from within the 50 states of the United States. We will find out from this section that the federal government has jurisdiction to tax only the following items. We are showing this picture because a picture "is worth a thousand words", as they say:

Table 5-4: Constitutional federal jurisdictions for taxation

Class of Tax	*Nature of Tax*	*Subject of Tax*	*Constitutional Authority*	*Valid Jurisdiction(s)*
Indirect Taxes	Excises Duties Imposts	Taxable activities Taxable events Taxable incidents Taxable occasions	Article 1, Section 8, Clauses 1,3 (1:8:1 and 1:8:3) 1:9:5	Throughout the federal United States on federal corporations and partnerships only. Congress cannot tax exports from states per 1:9:5. Can only tax corporate profits of federal corporations derived from foreign commerce within the states.
Direct Taxes	Capitation taxes	People	1:9:4 4:3:2	Must be apportioned among the states and cannot be directly on people outside of the "federal zone". Inside the Federal zone, anything goes per ***Downes v. Bidwell,*** 182 U.S. 244 (1901) and 4:3:2 of the Constitution.
	Property taxes	Property (which property?) (Be specific.)		

NOTES:

1. The Sixteenth Amendment did NOT eliminate the constitutional requirement for apportionment of direct or capitiation taxes, but simply placed all taxes on income in the category of indirect excise taxes, to which they inherently belonged.

2. "Excise taxes" may only be placed on the sale or manufacture of goods which are imported from foreign countries. Excise taxes are synonymous to "privilege" taxes and apply only to corporations and the profits of corporations, but not to natural born persons.
3. Excise taxes may ***not*** be placed on exports from states or sales between two entities entirely within a single state. This requirement comes from Arrticle 1, Section 9, Clause 5 (1:9:5) of the Constitution, which states:

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

4. The supreme Court case of ***Flint v. Stone Tracy Co.,*** 220 U.S. 107 (1911) defined excise taxes as:

> *"...taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon* ***licenses*** *to pursue occupations, and upon corporate privileges."*

5. When the supreme Court said "licenses", they meant licenses granted by the taxing authority. For instance, one must be a federal corporation or franchise with a physical presence in the federal zone in order to be liable for excise taxes. The same thing goes for state taxes.
6. If you want to avoid income taxes altogether as a corporation, then just make sure that you have no profits and that all profits are passed on to the wage earners through a means such as employee ownership of the corporation.

Before a court can hear a matter dealing with jurisdiction, at least one of two elements that make up jurisdiction ***must*** be present. We now quote Black's Law Dictionary, Sixth Edition, on this subject:

> *"**Subject matter jurisdiction**: This term refers to a court's power to hear and determine cases of the general class or category to which proceedings in question belong; the power to deal with the general subject involved in the action. Standard Oil Co. v. Montecatini Edison S. p. A., D.C.Del., 342 F.Supp. 125, 129. See also Jurisdiction of the Subject matter."*
> *[Black's Law Dictionary, Sixth Edition, page 1425]*

> *"**Territorial jurisdiction**: Territory over which a government or a subdivision thereof, or court, has jurisdiction. State v. Cox, 106 Utah 253, 147 P.2d 858, 861. Jurisdiction considered as limited to cases arising or persons residing within a defined territory, as, a country, a judicial district, etc. The authority of any court is limited by the boundaries thus fixed. See also Extraterritorial jurisdiction: Jurisdiction."*
> *[Black's Law Dictionary, Sixth Edition, page 1473]*

5.2.1 Sovereignty: Key to Understanding Federal Jurisdiction

The concept of sovereignty is the absolute key to understanding federal jurisdiction. First, lets define the term from Black's Law Dictionary, Sixth Edition, page 1396:

> *"The power to do everything in a state without accountability,--to make laws, to execute and to apply them, to impose and collect taxes and levy contributions, to make war or peace, to form treaties of alliance or of commerce with foreign nations, and the like.*

> *Sovereignty in government is that public authority which directs or orders what is to be done by each member associated in relation to the end of the association. It is the supreme power by which any citizen is governed and is the person or body of persons in the necessary existence of the state and that right and power which necessarily follow is "sovereignty." By "sovereignty" in its largest sense it means supreme, absolute, uncontrollable power, the absolute right to govern. The word which by itself comes nearest to being the definition of "sovereignty" is will or volition as applied to political affairs. City of Bisbee v. Cochise County, 52 Ariz. 1, 78 P.2d 982, 986."*

The issue of sovereignty as it relates to jurisdiction is the foundation of understanding our system of government under the Constitution. In the most common sense of the word "sovereignty" is autonomy, freedom from external control. The sovereignty of any government usually extends up to, but not beyond, the borders of its jurisdiction. This jurisdiction defines a specific territorial boundary which separates the "external" from the "internal", the "within" from the "without", or the "domestic" from the "foreign". It may also define a specific function, or set of functions, which a government may lawfully perform within a particular territorial boundary.

Sovereignty is a term to be used very thoughtfully and carefully. In fact, in America, it is the foundation for *all* governmental authority, because it is always delegated downwards from the true source of sovereignty, *the People themselves*! This is the entire basis of our Constitutional Republic as follows:

> *"The ultimate authority ... resides in the people alone." -- James Madison, The Federalist, No. 46.*

> *"... **The governments are but trustees acting under derived authority and have no power to delegate what is not delegated to them**. But the people, as the original fountain might take away what they have delegated and intrust to whom they please. ...The sovereignty in every state resides in the people of the state and they may alter and change their form of government at their own pleasure." Luther v. Borden, 48 US 1, 12 LEd 581 (1849)*

> *"While sovereign powers are delegated to ... the government, sovereignty itself remains with the people.." Yick Wo v. Hopkins, 118 U.S. 356 (1886)*

> *"There is no such thing as a power of inherent sovereignty in the government of the United States .... In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld." Julliard v. Greenman: 110 U.S. 421 (1884)*

> *"In the United States***, **sovereignty resides in the people who act through the organs established by the Constitution**. [cites omitted] The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. **The Congress cannot invoke the sovereign power of the people to override their will as thus declared." Perry v. United States**, 294 U.S. 330, 353 (1935)*

The "federal zone" is that area over which the sovereignty of the [federal] United States** extends under the authority of Article 1, Section 8, Clause 17 of the U.S. Constitution. It consists of the District of Columbia, the territories and possessions belonging to Congress, and a limited amount of land within the States of the Union called federal "enclaves". Enclaves are often referred to in U.S. government regulations simply as "the states" or "the States", which can and often does deceive people into thinking this means all of the nonfederal land in the 50 sovereign states when in fact it does not. The U.S. Supreme Court, in the case of ***Hooven and Allison v. Evatt***, confirmed this view in its definition of "United States":

> *"The term 'United States' may be used in any one of several senses. **[1]** It may be merely the name of a **sovereign*** occupying the position analogous to that of other sovereigns in the family of nations. **[2] It may designate the territory over which the sovereignty of the United States** extends**, or **[3]** it may be the collective name of the states*** which are united by and under the Constitution." Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)*

Note that only the second definition of the term "United States" uses the word "sovereignty", and this area is the "federal zone". This area is described in the Treasury Regulations as follows:

> *"The term "**United States****" when used in a geographical sense includes **any territory under the sovereignty of the United States****. It includes the states, the District of Columbia, the possessions and territories of the United States**, the territorial waters of*

> *the United States**, the air space over the United States**, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States** and* ***over which the United States** has exclusive rights, in accordance with international law****, with respect to the exploration and exploitation of natural resources."*
>
> *26 CFR 1.911-2(g)*

A nation or state has no jurisdiction outside its own territory, as made clear by the U.S. supreme Court in ***Dred Scott v. John F.A. Sanford***, 60 U.S. 393 (1856):

> *"Every State or nation possesses an exclusive sovereignty and jurisdiction within her own territory, and her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and state of all persons therein, and also the remedy and modes of administering justice. And it is equally true that no State or nation can affect or bind property out of its territory, or persons not residing within it. No State therefore can enact laws to operate beyond its own dominions, and if it attempts to do so, it may be lawfully refused obedience. Such laws can have no inherent authority extraterritorially. This is the necessary result of the independence of distinct and separate sovereignties."*
>
> *Now it follows from these principles that whatever force or effect the laws of one State or nation may have in the territories of another must depend solely upon the laws and municipal regulations of the latter, upon its own jurisprudence and polity, and upon its own express or tacit consent."*
> ***Dred Scott v. John F.A. Sanford****, 60 U.S. 393 (1856)*

None of the 50 united States comes under the sovereignty of the federal "United States**", nor are the nonfederal areas of the 50 states subject to the *exclusive rights* of the federal government. Therefore, we must conclude that the term "the states" above refers *only* to federal enclaves inside the borders of the sovereign states, and most people do NOT live in these areas. Furthermore, 26 CFR § 1.911-2(h) reveals that anything outside the "federal zone" is considered a "foreign country", including the 50 States united by the Constitution!:

> *26 CFR 1.911-2(h): "The term "****foreign country****" when used in a geographical sense* ***includes any territory under the sovereignty of a government other than that of the United States*****. *It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States**), the air space over the foreign country, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country* ***and over which the foreign country has exclusive rights, in accordance with international law****, with respect to the exploration and exploitation of natural resources."*

That's right(!): all of the 50 sovereign states are *foreign* with respect to each other and are under the sovereignty of their respective legislatures, except where a specific power has been expressly delegated to Congress over lands within their borders. For cases where such a specific power has been delegated by the states to the federal government, this is called "subject matter jurisdiction" rather than "territorial jurisdiction". Each of these states, in turn, is also foreign to the territorial jurisdiction of the U.S. government for the purposes of income taxes as well. The Citizens of each Union State are foreigners and aliens *with respect to* another Union State, unless they establish a residence therein under the laws of that Union State. Otherwise, they are nonresident aliens with respect to all the other Union States. As far as legal fictions such as corporations, "domestic" corporations within a state are those corporations chartered within that state. Those chartered in other states are considered "foreign corporations". Here are a few quotes to back this up:

> *Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 5th Edition)*
>
> *Foreign Laws: "The laws of a foreign country or sister state." (Black's Law Dictionary, 6th Edition)*

> *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, 6th Edition)*

To summarize, we need to think of Congress as "City Hall" for the "federal zone". In 1820, Justice Marshall described it this way:

> *"... [Counsel] has contended, that Congress must be considered in two distinct characters. In one character as legislating for the states; in the other, as a local legislature for the district [of Columbia]. In the latter character, it is admitted, the power of levying direct taxes may be exercised; but, it is contended, for district purposes only, in like manner as the legislature of a state may tax the people of a state for state purposes. Without inquiring at present into the soundness of this distinction, its possible influence on the application in this district of the first article of the constitution, and of several of the amendments, may not be altogether unworthy of consideration."* ***Loughborough v. Blake****, 18 U.S. 317 (1820)*

The two distinct characters are mentioned again in a case the following year heard before the same Supreme Court, ***Cohens v. Virginia***, 6 Wheat. 264; 5 L.Ed. 257 (1821):

> *"It is clear that Congress as a legislative body, exercises two species of legislative power: the one, limited as to its objects but extending all over the Union; the other, an absolute, exclusive legislative power over the District of Columbia."*

The problem thus becomes one of deciding which of these "two distinct jurisdictions" is being referred to in the context of whatever tax law we are reading. The IRC language used to express the meaning of the "States" is arguably the best place to undertake a careful diagnosis of this split personality. However, one good place to start appears in the cite below, which establishes that *we should assume in any law passed by Congress that the jurisdiction they are referring to is only the federal zone and not the 50 states, unless an express contrary intent is clearly shown:*

> *"A canon of construction which teaches that of Congress, unless a contrary intent appears, is meant to apply* ***only within the territorial jurisdiction of the United States****."* ***U.S. v. Spelar****, 338 U.S. 217 at 222 (1949)*

To give you an idea of the extent of federal jurisdiction relating to various areas of law, we've prepared a table summarizing the jurisdiction of the federal government in various subject matters. A picture is worth a thousand words, and this table is the equivalent of a picture of federal sovereignty and jurisdiction. The important thing to remember as you examine the table below is that Subtitle A personal income taxes are *indirect excise taxes* which apply only inside the federal zone on federal corporations as per ***Eisner v. Macomber***, 252 U.S. 189 (1920). This conclusion explains items 6 and 7:

Table 5-5: Limits of U.S. Sovereignty by Subject Matter

#	*Subject matter*	*Legal reference*	*"Federal zone" Jurisdiction? (U.S.**)*	*Sovereign 50 states jurisdiction? (nonfederal areas, U.S* or U.S.***)*
1	Immigration and naturalization	Constitution 1:8:4	YES	YES
2	Regulate/tax foreign commerce (excises on ***imports***)	Constitution 1:8:3	YES	YES
3	Tax exports from sovereign states	Constitution 1:9:5	NO	NO
4	Coining money and	Constitution 1:8:5	YES	YES

#	*Subject matter*	*Legal reference*	*"Federal zone" Jurisdiction? (U.S.**)*	*Sovereign 50 states jurisdiction? (nonfederal areas, U.S* or U.S.***)*
	punishing counterfeiting			
5	Establish military, forts, magazines	Constitution 1:8:12 thru 1:8:16	YES (on land ceded to U.S.** by states)	NO
6	Subtitle A-C personal income taxes on natural persons	Constitution 1:2:3 and 1:9:4 26 U.S.C. §7701(a)(9) 26 U.S.C. §77019)(a)(10) U.S. v. Spelar, 338 U.S. 217 (1949)	YES	NO
7	Subtitle A-C personal income taxes on federal Corporations	Constitution 1:8:1 and 1:8:3	YES	YES
8	Subtitle D and E excise taxes on U.S.** chartered licenses and corporations *only*	Constitution 1:8:1 and 1:8:3	YES	YES

EXAMPLE: 1:9:4=Article 1, Section 9, Clause 4 of the U.S. Constitution.

NOTE: The federal government may only reach inside the borders of a sovereign state for the sake of enforcing areas over which the government has *subject matter jurisdiction*, because it cannot have territorial jurisdiction and cannot be sovereign there. Sovereignty is only exercised when the type of jurisdiction is exclusively territorial. This point is very important to remember when you read the Constitution.

5.2.2 How Does the Federal Government Acquire Sovereignty Over an Area?

How does the Federal Government acquire exclusive legislative jurisdiction or sovereignty over property under Article 1, Section 8, Clause 17 of the U.S. Constitution? According to the April, 1956, report (Part I), pages 41-47 of the Interdepartmental Committee "Study Of Jurisdiction Over Federal Areas Within The States" (see http://familyguardian.tzo.com/Subjects/LegalGovRef/Articles/FedJurisdiction/Rpt/fj0-0000.htm) the court has recognized three methods by which the federal government may acquire exclusive legislative jurisdiction over real property:

1. ***Constitutional consent.***--Other than the District of Columbia, the Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction-- purchase with State consent under article I, section 8, clause 17.

> *..."and to exercise like authority over all places purchased by the **consent of the legislature of the state in which the same shall be**, for the creation of forts, magazines, arsenals, dockyards and other needful buildings...."*
>
> *"The debates in the Constitutional Convention and State ratifying conventions leave little doubt that both the opponents and proponents of Federal exercise of exclusive legislature jurisdiction over the seat of government were of the view that a constitutional provision such as clause 17 was essential if the Federal government was to have such jurisdiction.... While, as has been indicated in the preceding chapter, little attention was given in the course of the debates to Federal exercise of exclusive legislative jurisdiction over areas other than the seat of government, **it is reasonable to assume that it was the general view that a special constitution provision was essential to enable the United States to acquire exclusive legislative jurisdiction over any area..."***

According to the 1956 report, pages 7-8, "... the provision of the second portion, for transfer of like jurisdiction [as the District of Columbia] to the Federal Government over other areas acquired for Federal purposes, was not uniformly exercised during the first 50 years of the existence of the United States. It was exercised with respect to most, but not all, lighthouse sites, with respect to various forts and arsenals, and with respect to a number of other individual properties. But search of appropriate records indicates that during this period it was often the practice of the Government merely to purchase the lands upon which its installations were to be placed and to enter into occupancy for the purposes intended, without also acquiring legislative jurisdiction over the lands."

2. ***Federal reservation***.--In Fort Leavenworth R.R. v. Lowe, 114 U.S. 525 (1885), the Supreme Court approved a method not specified in the Constitution of securing legislative jurisdiction in the United States. Although the matter was not in issue in the case, the Supreme Court said (p. 526):

> *"The land constituting the Reservation was part of the territory acquired in 1803 by cession from France, and until the formation of the State of Kansas, and her admission into the Union, the United States possessed the rights of a proprietor, and had political dominion and sovereignty over it. For many years before that admission it had been reserved from sale by the proper authorities of the United States for military purposes, and occupied by them as a military post. The jurisdiction of the United States over it during this time was necessarily paramount. But in 1861 Kansas was admitted into the Union upon an equal footing with the original States, that is, with the same rights of political dominion and sovereignty, subject like them only to the Constitution of the United States.* ***Congress might undoubtedly, upon such admission, have stipulated for retention of the political authority, dominion and legislative power of the United States over the Reservation so long as it should be used for military purposes by the government; that is, it could have excepted the place from the jurisdiction of Kansas, as one needed for the uses of the general government****. But from some cause, inadvertence perhaps, or over-confidence that a recession of such jurisdiction could be had whenever desired, no such stipulation or exception was made."(See also United States v. Gratoit concerning post-statehood reservation of mines, salt licks, salt springs, and mill seats in the (former) Eastern ceded territories.)*

3. ***State cession.***--In the same case, (Fort Leavenworth R.R. v. Lowe,) the United States Supreme Court sustained the validity of an act of Kansas ceding to the United States legislative jurisdiction over the Fort Leavenworth military reservation, but reserving to itself the right to serve criminal and civil process in the reservation and the right to tax railroad, bridge, and other corporations, and their franchises and property on the reservation. In the course of its opinion sustaining the cession of legislative jurisdiction , the Supreme Court said (p. 540):

> *"... Though the jurisdiction and authority of the general government are essentially different form those of the State, they are not those of a different country; and the two, the State and general government, may deal with each other in any way they may deem best to carry out the purposes of the Constitution. It is for the protection and interests of the States, their people and property, as well as for the protection and interests of the people generally of the United States, that forts, arsenals, and other buildings for public uses are constructed within the States.* ***As instrumentalities for the execution of the powers of the general government, they are, as already said, exempt from such control of the States as would defeat or impair their use for those purposes; and if, to their more effective use, a cession of legislative authority and political jurisdiction by the State would be desirable, we do not perceive any objection to its grant by the Legislature of the State. Such cession is really as much for the benefit of the State as it is for the benefit of the United States****."*

The above list of three sources of jurisdiction, however, is missing one *very important* additional source of federal jurisdiction. As a matter of fact, it is THE most important and frequent source. Another way the U.S. government gets exclusive legislative jurisdiction over sovereign people and property inside the borders of states is to trick sovereign state citizens (also called Natural Born Persons) into falsely admitting that they are "U.S.** citizens", and then they become federal property…slaves!

> **"The persons declared to be citizens are ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF. The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but COMPLETELY SUBJECT..."**
>
> **[Elk v. Wilkins, 112 U.S. 94 (1884)]**

As a "U.S.** citizen", both you and everything you own comes under the jurisdiction of the federal courts. This is jurisdiction they got from you that they wouldn't have if you knew enough about the law to know that you aren't a "U.S.** citizen"! Why on earth would anyone want to admit to being a "U.S. citizen", especially since such persons by law must be born on federal property inside the federal zone:

> *3A Am Jur 1420, Aliens and Citizens*
>
> *"A person is born subject to the jurisdiction of the United States, for purposes of acquiring citizenship at birth, **if this birth occurs in a territory over which the United States is sovereign**..."*

Here's the *only* definition of "U.S. citizen" *anywhere* in 26 U.S.C. or 26 CFR:

> *26 CFR 31.3121(e) 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.*

By the above definition, most people simply aren't "U.S. citizens" but their own ignorance deceives them into thinking that they are! That is why we emphasize over and over in this book that it is so important to *get educated* so the exploitation and oppression the government has foisted upon you because of your legal ignorance can be eliminated immediately. Knowledge is the only way out of financial slavery to the government. Instead, we should always declare ourselves to be "U.S.* nationals" and *never* "U.S.** citizens" and we should never file 1040 forms, but instead if we file anything, they should be 1040NR forms.

5.2.3 Limitations on Federal Taxation Jurisdiction

At this point it is reasonable to consider what types of income might be (as the older regulations state) "*under the Constitution, not taxable by the Federal Government*." While the public seems largely ignorant of this fact, Congress has legal power over only those few matters which the Constitution puts under federal jurisdiction (and the Tenth Amendment clearly states this). Within the 50 states, Congress has legal control over only those matters listed in Article I, Section 8 of the Constitution.

> *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 [UNITED STATES v. LOPEZ, ___ U.S. ___ (1995) , 3] 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."***
> ***United States v. Lopez**, 514 U.S. 549 (1995)*

> *"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." - Tenth Amendment, U.S. Constitution*

In the 1995 case of ***U.S. v. Lopez*** cited above, the Supreme Court threw out the "Gun Free School Zone" law (18 USC § 922(q)) as unconstitutional, on the grounds that it was outside of Congress' enumerated powers described in Article I, Section 8. Not only did the court say this, but the lawyers on the *other* side tried to argue that the law was about regulating "interstate commerce" (which Article I, Section 8 puts under federal jurisdiction), demonstrating that they *agreed* that the law had to be based on something in Article I, Section 8.

Article I, Section 8 of the Constitution authorizes Congress "*to lay and collect taxes*." but does not say *what* may be taxed by Congress. In addition, the Sixteenth Amendment states: "*Congress shall have the power to lay and collect taxes on income, from whatever* ***source*** *derived*." So surely Congress has the Constitutional power to tax your income, doesn't it? In most cases, no, it doesn't. Many have argued about the "direct tax" vs. "indirect tax" question (which is not necessary to explain in detail here), but the more important limitation on Congress' taxing power (the one keeping them from actually imposing the tax most people assume exists) is usually overlooked.

Article I, Section 8 leaves almost all matters that occur within a single state (e.g. intrastate commerce) to the *state* governments. But, as mentioned above, it *does* grant Congress the "*power to lay and collect taxes*." While there are rules for how "direct" and "indirect" taxes must be imposed, the taxing clauses do not say exactly *what* may or may not be taxed (there is, however, a clause forbidding taxation on exports from states). Is there then no limit to *what* Congress can tax, only *how* they can tax?

To answer that, we start with a simple question: Do Article I, Section 8 and the Sixteenth Amendment give Congress the power to tax the incomes of everyone in China? The question is admittedly a bit silly, but *why* is it silly? If Congress has the power "*to lay and collect taxes*," and specifically has the power "*to lay and collect taxes on* ***income****, from* ***whatever source*** *derived*," why can't it tax everyone in China? In this case, we naturally (and correctly) assume that "*from whatever source*" only includes things under the jurisdiction of Congress. (It would be difficult to find anyone to make the argument that the Sixteenth Amendment gave Congress jurisdiction over everyone in China.)

So Congress can't tax everyone in China. Big deal. What does that have to do with us Americans? The question about geographical or territorial jurisdiction is fairly simple, but what about jurisdiction *within* the 50 states? This type of jurisdiction, instead of "territorial jurisdiction" or sovereignty, is called "*subject matter jurisdiction*". Can Congress tax anything it wants there?

Article I, Section 8 *does* include the "*power to lay and collect taxes,*" but does not say *what* may be taxed by Congress. This allows for two options. The first option is that there are essentially ***no*** limitations on what Congress can tax (though there are certain rules on *how* "direct" and "indirect" taxes must be imposed). The problem with this option is that it would essentially negate the entire Constitution, as this option would give Congress the jurisdiction and power to control *anything and everything*, provided it exerted that control through ***tax*** legislation. For example, if this option were true, in response to the Lopez decision mentioned above, Congress could simply impose a $1,000,000 ***tax*** on carrying a firearm near a school, to get around the restriction that would otherwise exist.

The courts have thrown out many acts of Congress, on the grounds that they were beyond the powers granted to Congress by Article I, Section 8. For example, the Supreme Court threw out the "Gun Free School Zone" law in the 1995 "Lopez" decision. The law (18 U.S.C. §922(q)) made it illegal for anyone to possess a gun near a school. Despite attempts by the government lawyers to pass this off as a regulation of interstate commerce (which Article I, Section 8 puts under federal jurisdiction), the court ruled that such a law was not within Congress' constitutional power to make." Here is what they said in ***U.S. v. Lopez***, 514 U.S. 549 (1995)::

> ***To uphold the Government's contentions here****, we would have to pile inference upon inference in a manner that* ***would bid fair to convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States****. Admittedly, some of our prior cases have taken long steps down that road, giving great deference to congressional action. See supra, at 8. The broad language in these opinions*

> *has suggested the possibility of additional expansion, but we decline here to proceed any further. To do so would require us to conclude that the Constitution's enumeration of powers does not presuppose something not enumerated, cf. Gibbons v. Ogden, supra, at 195, and that there never will be a distinction between what is truly national and what is truly local, cf. Jones & Laughlin Steel, supra, at 30. This we are unwilling to do.*

Suppose, after that ruling, Congress then imposed a $1,000,000 "*tax*" on possessing a gun near a school. Would that not get around the restriction? If Congress could control ***any*** behavior it wanted, as long as it is done by way of "tax" legislation, then:

> *"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."*

Those are the words of the Supreme Court, from the case of ***Bailey v. Drexel Furniture Co.,*** 259 U.S. 20 (1922). An Act of Congress, designed to regulate by way of a "tax" something not *otherwise* under federal jurisdiction, "***cannot be sustained as an exercise of the taxing power of Congress conferred by section 8, article 1***." Again, those are the words of the Supreme Court, this time from the case of ***Hill v. Wallace,*** 259 U.S. 44 (1922). In other words, the taxing clause in Article I, Section 8, does ***not*** give Congress jurisdiction over everything occurring within the 50 states.

The next logical question is: Does Congress have any power over those who receive their income from *intrastate* commerce (commerce within a single state)? Under Article I, Section 8, Congress ***does not have jurisdiction*** over intrastate commerce.

> *"No interference by Congress with the business of citizens transacted within a state is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature." [****License Tax Cases****, 72 U.S. 462 (1866)]*

During this century, the courts have stretched their reading of the "commerce clause" to the extreme. The courts have upheld many Acts of Congress, on the grounds that the matters regulated, though not interstate commerce themselves, have enough of an "impact" on interstate commerce that Congress may regulate them. We will here limit our criticism of this tendency of the courts to agreeing with Supreme Court Justice, Clarence Thomas, in his concurring opinion in the ***U.S. v. Lopez***, 415 U.S. 549 (1995) case mentioned above, when he said:

> *"We have said that Congress may regulate not only "Commerce... among the several states," U.S. Const., Art. I, 8, cl. 3, but also anything that has a "substantial effect" on such commerce... [I]t seems to me that the power to regulate "commerce" can by no means encompass authority over mere gun possession, any more than it* ***empowers the Federal Government*** *to regulate marriage, littering, or cruelty to animals,* ***throughout the 50 States****. Our Constitution quite properly* ***leaves such matters to the individual States****, notwithstanding these activities' effects on interstate commerce. Any interpretation of the Commerce Clause that even suggests that Congress could regulate such matters is in need of reexamination."*

Even with the courts' "creative" interpretation of the commerce clause, it would be quite a stretch to say that Congress has the jurisdiction to regulate ***all*** income-generating activities within the 50 states. If they cannot regulate it, can they tax it?

There has been extensive debate in the courts over the concept that "the power to tax is the power to destroy." Though usually applied to limits on *state* power, the principle basically says that if a government has no jurisdiction to *regulate* an activity, then it also cannot *tax* that activity.

> *"[N]o state has the right to lay a tax on interstate commerce in any form... and the reason is that such **taxation** is a burden on that commerce, and amounts to a **regulation** of it, which belongs solely to congress. This is the result of so many recent cases that citation is hardly necessary." [**Leloup v. Port of Mobile**, 127 U.S. 640 (1888)]*

But the courts have gone back and forth on this issue as well. Could anyone argue that the extensive "social engineering" in the tax Code, rewarding some behaviors with credits and deductions, while penalizing others, does ***not*** amount to an attempt to regulate the behavior of those who receive taxable income? Does Congress have the authority to regulate the behavior of 100+ million Americans in that manner, by way of "tax" legislation? Or could it be that such "reward and punishment" tactics could only be imposed on those engaged in some activity *otherwise* under federal jurisdiction? What might that activity be that makes us "liable"?

In discussing the Income Tax Act of 1913, as it related to a company engaged in the business of selling U.S. products in foreign countries, the Supreme Court stated the following:

> *"The Constitution broadly empowers Congress not only **'to lay and collect taxes**, duties, imposts, and excises,' **but also 'to regulate commerce with foreign nations**,' So, if [the clause forbidding taxes on exports from states] be not in the way, Congress undoubtedly **has power to lay and collect such a tax as is here in question**." [**William E. Peck & Co. v. Lowe**, 247 U.S. 165 (1918)]*

Why would the Supreme Court even mention the second clause, unless there was some question about whether the "*power to lay and collect taxes*" ***by itself***, authorized a tax on any and all income?

But what of the Sixteenth Amendment? Didn't that expand Congress' taxing jurisdiction to all Americans? The Supreme Court and the Secretary of the Treasury say it did ***not***. The following Treasury Decision (which expresses the official position of the Secretary of the Treasury) is actually a direct quote from the Supreme Court's ruling in the case of ***Stanton v. Baltic Mining Co.,*** 240 U.S. 103 (1916).

> *"The provisions of the sixteenth amendment **conferred no new power of taxation**, but simply prohibited [Congress' original power to tax incomes] 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." Treasury Decision 2303*

In the 1916 case of ***Brushaber v. Union Pacific Railroad Co.,*** 240 U.S. 1 (1916), the Supreme Court called it an "**erroneous assumption**" to believe that "the 16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes."

The Sixteenth Amendment was passed in response to the Supreme Court decision in ***Pollock v. Farmers' Loan & Trust Co.,*** 157 U.S. 429 (1895), which said that a tax on the income derived from owning property was the same as a tax on owning property, which would be a "direct" tax, requiring Congress to go through the complicated process of "apportioning" the tax among the states. (The court's complaint about the tax did not apply to income received in exchange for labor.)

Without discussing all the ins and outs of "direct" and "indirect" taxes, the relevant point is that the Sixteenth Amendment simply identified the tax as an "indirect" tax (even when the income comes from property ownership), and therefore a tax which does not require (and has never required) "apportionment." It did nothing to expand Congress' taxing jurisdiction.

> *"**The Sixteenth Amendment**... 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**..." [**William E. Peck & Co. v. Lowe**, 247 U.S. 165 (1918)]*

The Sixteenth Amendment does not at all address Congress' taxing jurisdiction, in spite of what well-meaning but ignorant Congressmen tell their constituents all the time in regards to their liability to pay income taxes. Saying that Congress can tax incomes "from whatever source derived," without apportionment, obviously did not allow Congress to tax everyone in

China. The only issue the amendment is relevant to is the question of "direct" vs. "indirect" taxation (with the amendment stating that the income tax is an "*indirect*" tax).

In fact, in one of the key rulings regarding the meaning of the Sixteenth Amendment, the Supreme Court made some interesting comments that show that the amendment was *not* about taxing jurisdiction in general. In the case of ***Stanton v. Baltic Mining Co.,*** 240 U.S. 103 (1916), the Supreme Court stated that the Sixteenth Amendment simply forbids the courts from ruling that the income tax is a "direct" tax, based on "*the sources from which the income was derived*," as happened in the Pollock case (mentioned above). The Court then said the following:

> *"Mark, of course, in saying this we are* ***not*** *here considering a tax...* ***entirely beyond the scope of the taxing power of Congress****, and where consequently* ***no authority to impose a burden****, either* ***direct or indirect****, exists. In other words, we are here dealing solely with the restriction imposed by the 16th Amendment on the right to resort to the source whence an income is derived in a case* ***where there is power to tax****..." [****Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)****]*

If there were no Constitutional restriction on Congress' jurisdiction to tax incomes, this would make no sense. Is the court here referring merely to Congress' inability to tax foreigners who do no business related to the United States of America? Would the court feel the need to mention *that*? Or were they implying that *other* restrictions exist on Congress' ability to tax income? The Court thought it worth mentioning that they were ***not*** implying that the Sixteenth Amendment removed all the limits from Congress' taxing power.

Article I, Section 8 *does* include the "*power to lay and collect taxes,*" but does not say *what* may be taxed by Congress. This allows for two options. The first option is that there are essentially ***no*** limitations on what Congress can tax (though there are certain rules on *how* "direct" and "indirect" taxes must be imposed). The problem with this option is that it would essentially negate the entire Constitution, as this option would give Congress the jurisdiction and power to control *anything and everything*, provided it exerted that control through ***tax*** legislation. For example, if this option were true, in response to the Lopez decision mentioned above, Congress could simply impose a $1,000,000 ***tax*** on carrying a firearm near a school, to get around the restriction that would otherwise exist.

The Supreme Court seems to agree that this option cannot be. The court said that they could not allow Congress to control by ***tax*** legislation matters which they have no jurisdiction to *regulate*. (Congress was attempting, in this case, to control "child labor" within the states through tax legislation.) The Supreme Court said the following:

> *"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)]*

In the same year, the court also ruled on the Future Trading Act, which imposed a tax "on all contracts for the sale of grain for future delivery." The court quoted the citation above, and immediately afterward said this:

> *"This has complete application to the act before us, and requires us to hold that the provisions of the act we have been discussing* ***cannot be sustained as an exercise of the taxing power of Congress conferred by section 8, article 1****."*
> *[Hill v. Wallace, 259 U.S. 44 (1922)]*

Clearly the court saw that Congress' power to lay and collect taxes does *not* grant unlimited jurisdiction over everything within the states. To ignore the limits of federal jurisdiction when reading the taxation clause would lead to concluding that Congress can control *everything* by tax legislation. (In fact, this reading would also mean that Congress has the power to tax everyone in China, since the taxing clause does not mention *geographical* jurisdiction either.)

The second option is that "*the power to lay and collect taxes*" applies only to matters ***otherwise*** under federal jurisdiction. For example, Article I, Section 8 specifically puts international commerce under federal jurisdiction, and Article IV, Section 3 gives Congress control of federal possessions. However, "intrastate" commerce (commerce that happens entirely within a single state) is *not* under federal jurisdiction. Here is a quote from the Constitution that prohibits taxing intrastate commerce:

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

So the power to tax, together with the clauses giving Congress jurisdiction over international commerce, and commerce within federal possessions, would give Congress the power to tax income from international commerce, and income from federal possessions.

The Supreme Court made an interesting comment in 1918 related to this. The case concerned the income tax act of 1913 (which is the basis of the current tax), and how it applied to a domestic corporation in the business of buying things in the states and selling them in foreign countries. The corporation was arguing that the tax in this case violated the provision of the Constitution which forbids the federal government from taxing exports from any state.

> *"[T]he act obviously **could not impose a tax forbidden by the Constitution**... The Constitution broadly empowers Congress not only **'to lay and collect taxes**, duties, imposts, and excises,' **but also 'to regulate commerce with foreign nations**.' So, if the prohibitory clause [meaning the clause forbidding taxes on exports from states] invoked by the plaintiff be not in the way, Congress undoubtedly **has power to lay and collect such a tax as is here in question**."*
> *[**William E. Peck & Co. v. Lowe**, 247 U.S. 165 (1918)]*

In other words, if not for the question about whether this was a tax on state exports, this income would be taxable because Congress is given the general power "*to lay and collect taxes*," and is given *specific* jurisdiction over "*regulat*[ing] *commerce with foreign nations*." The court obviously thought this second clause was relevant to whether Congress could tax such income.

As you will see later in this book starting in section 5.6.10, the popular "861 Position" fully realizes exactly the above described limits on the power of the federal government to tax foreign commerce under Article 1, Section 8, Clause 3 of the U.S. Constitution. It recognizes the income tax as an *indirect excise tax* on revenue taxable privileges granted only to federal corporations. 26 CFR § 1.861-8(f) therefore limits taxable sources of income for the federal government to specific taxable activities and entities, which include:

- Profit of federally-chartered Foreign Sales *Corporations* (FSC's).under 26 U.S.C. 994
- Profit from federally chartered Domestic International Sales *Corporations* (DISC) under 26 U.S.C. 925
- Foreign base company income under 26 U.S.C. 954.. This type of company is also identified as a federal *corporation* in 26 U.S.C. 952, but is operating inside a military base on federal property.

The courts have long argued over the concept that "the power to tax is the power to destroy," meaning that the ability to tax something implies the ability to regulate it or to forbid it entirely. This conversely implies that if a government has no jurisdiction to *regulate* or *forbid* an activity, then it also has no jurisdiction to *tax* that activity. There are numerous Supreme Court cases dealing with the concept.

> *"[N]o state has the right to lay a tax on interstate commerce in any form... and the reason is that such **taxation** is a burden on that commerce, and amounts to a **regulation** of it, which belongs solely to congress. This is the result of so many recent cases that citation is hardly necessary." [**Leloup v. Port of Mobile**, 127 U.S. 640 (1888)]*

In this case the court is stating the restrictions on what a *state* can tax, but the underlying logic is clear. Taxing commerce is a burden on that commerce, and amounts to a *regulation* of commerce. While Congress is authorized to regulate *interstate* commerce (commerce crossing state lines) and international commerce, it has no jurisdiction over *intrastate*

commerce (commerce occurring entirely within a single state). By the simple logic above, that means Congress cannot tax income from intrastate commerce.

> *"No interference by Congress with the business of citizens transacted within a state is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature." [**License Tax Cases**, 72 U.S. 462 (1866)]*

It is true that the opinions of the courts have fluctuated significantly on this, from saying that the power to tax requires the power to regulate, to saying that Congress may tax things it cannot regulate, provided that taxation does not amount to *regulation* under the guise of a "tax." But considering the massively complex "social engineering" in the income tax laws (punishing some behaviors and rewarding others) it would be difficult to argue that it would not constitute an attempt to regulate behavior.

However, the courts' position on the matter is ultimately irrelevant. Regardless of what the courts think Congress *could* tax, the statutes and regulations show what Congress *did* tax. Whether the courts think Congress has the constitutional power to tax the income of all Americans is only relevant if Congress attempts to *impose* such a tax, which has not occurred. (The courts cannot expand the scope of a tax just by saying that Congress *could* have taxed more if they had wanted to.)

Brief mention should be made of the 16th Amendment to the Constitution, since there is a common but erroneous belief that the 16th Amendment expanded Congress' power to impose direct taxes on incomes. The purpose of the 16th Amendment, according to the Supreme Court in ***Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 (1916)***, and again in ***Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)*** was to make it clear that the income tax is, and has always been, an indirect "excise" tax, which never required apportionment. The Secretary of the Treasury agreed with the Court in Treasury Decision 2303:

> *"The Sixteenth Amendment. **The provisions of the sixteenth amendment conferred no new power of taxation, but simply prohibited** [Congress' original power to tax incomes] **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.**" [Treasury Decision 2303]*

An in-depth explanation of direct and indirect taxes, and how they must be imposed, is not necessary here. The only relevant point is that Congress' taxing jurisdiction was ***not*** expanded by the 16th Amendment.

QUESTION FOR DOUBTERS: *Under Article I, Section 8 (first clause) of the Constitution, can Congress control anything and everything within the 50 states, provided that that control is exerted through tax legislation?*

But, after all this discussion of what the courts think, in the end that is irrelevant. As the statutes and regulations show, the income tax was ***not*** imposed on the income of most Americans, regardless of the "conventional wisdom" on the subject. The above discussion is ***not*** an attempt to claim that Congress imposed an unconstitutional tax. (They did not.) It is to explain *why* Congress ***did not*** impose the tax that the American people have been tricked into believing exists. If Congress did not impose the tax, of what relevance is it whether the courts think they *could* have?

Because of the above restrictions, we would like to summarize the extent of Congress' power to lay and collect taxes:

> *"The Internal Revenue Code is precisely that: Internal to the 'federal zone', which includes the District of Columbia, and federal possessions and territories over which the U.S. Government is sovereign and has exclusive jurisdiction. The IRC therefore is a kind of municipal law for its regional holdings throughout the country and within the borders of the 50 states, but does not apply to the states in their entirety. If and when those federal holdings transition to ownership either by the individual states or to citizens within the states of the Union, the federal government cedes or forfeits jurisdiction and control and sovereignty over those areas."*

All laws that have applicability only on federal property only are called "special law" as opposed to "public law", which has general applicability to all American Citizens:

> ***special law****: One relating to particular persons or things; one made for individual cases or for particular places or districts; one operating upon a selected class, rather than upon the public generally. A private law. A law is "special" when it is different from others of the same general kind or designed for a particular purpose, or limited in range or confined to a prescribed field of action or operation. A "special law" relates to either particular persons, places, or things or to persons, places, or things which, though not particularized, are separated by any method of selection from the whole class to which the law might, but not such legislation, be applied. Utah Farm Bureau Ins. Co. v. Utah Ins. Guaranty Ass'n, Utah, 564 P.2d 751, 754. A special law applies only to an individual or a number of individuals out of a single class similarly situated and affected, or to a special locality. Board of County Com'rs of Lemhi County v. Swensen, Idaho, 80 Idaho 198, 327 P.2d 361, 362. See also Private bill; Private law. Compare General law; Public law.*
>
> *[Black's Law Dictionary, Sixth Edition, pp. 1397-1398, 0-314-76271-X]*

If you want to know more about the concept of the Internal Revenue Code and the Sixteenth Amendment being special law, refer to the following fascinating article on our website:

http://familyguardian.tzo.com/Subjects/Taxes/16Amend/SpecialLaw/16thAmendIRCIrrelevant.htm

Throughout the discussion in this section, we have tried and will continue to try to be very careful about the use of the word "State", because it is a "word of art" that has a different meaning in the IRC than in everyday usage, as we pointed out in section 5.6.11.2. That is why we have consistently either said "the 50 states" or "federal zone" instead of mixing the two definitions together and loosely calling both of them "States". We encourage you to be just as careful how you use these terms yourself so you don't confuse people and thereby undermine the tax freedom movement.

5.2.4 Cites that Define Federal Taxing Jurisdiction

Defining ***jurisdiction*** is therefore the key to understanding what Congress can lawfully tax. This is the same as the way the real estate field works:

> *"The three key things in deciding property value are location, location, and location!"*

In the case of the government, we could rewrite this as :

> *"The three key things in deciding the amount of tax that can be extracted/extorted is location, jurisdiction, and what the ignorance and apathy of the voters will let you get away with!"*

In this section, we'll establish the jurisdiction of the federal government of the United States. We have compiled a list of a few court cases and statutory citations that confirm the importance of jurisdiction and geographical boundaries and their extent when establishing the relevancy of the federal tax laws:

> *"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."*
> ***Caha v. United States****, 152 U.S. 211 (March 5, 1894)*

> *" . . the states are separate sovereigns with respect to the federal government. The states are no less sovereign with respect to each other the they are with respect to the federal*

government. The Court expressly refused to find that only state and federal government could be considered distinct sovereign with respect to each other:
***Heath v. Alabama**, 474 U.S. 82 (December 3, 1985)*

"All legislation is prima facie territorial."
***American Banana Co. v. U.S. Fruit Co**., 213 U.S. 347, at 357-358 (1909)*

*"A canon of construction which teaches that of Congress, unless a contrary intent appears, is meant to apply **only within the territorial jurisdiction of the United States**."*
***U.S. v. Spelar**, 338 U.S. 217 at 222 (1949)*

NOTE: An example of this construction and limitation is found in Title 18 USC (Criminal Code) at §7 which specifies such jurisdiction outside of any particular state. The Federal income tax of 1939 recorded in the Statues at Large of October 3, 1913 on page 177 states the limitation to be only that of "any Federal territory, Alaska, District of Columbia, Puerto Rico and Philippine Islands." Alaska is now a Sovereign state and the Philippine islands are no longer a territory of the United States** and you can not find any reference to these former territories in the Internal Revenue Code. Why is that?

"The United States government is a foreign corporation with respect to a state."
***N.Y. re: Merriam**, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287*

"Legislation is presumptively territorial and confined to the limits over which the law making power has jurisdiction."
***N.Y. R.R. v. Chisholm**, 268 U.S. 29 at 31-32 (1925)*

In addition to these cases, the most enlightening case of all on the subject of federal jurisdiction and the division of responsibilities between the states and the Federal government is the supreme Court case of ***U.S. v. Lopez***, 514 U.S. 549 (1995). This case firmly establishes that the *only thing* that the federal government can regulate or tax *within* states are activities that impact commerce *between states*, under the Commerce Clause of the U.S. Constitution, Article 1, Section 8, Clause 3. There is no other constitutional basis for any federal taxation or intervention within a sovereign state than the Commerce Clause. Direct taxes on citizens assessed within states violate the Commerce Clause and usurp the power, sovereignty, and authority of the states and implementation of such taxes by the IRS and the Treasury should have been declared unconstitutional by all federal courts long ago.

Now that we have established the importance of geography and sovereignty of the states vis a vis the Federal Government, lets look at the definitions of the term "United States". Looking into the IRC we find specifics about the definition of the "United States". It is ***not*** the same as the "United States of America".

"United States" General definition for the entire Title 26. This definition is to be used in all chapters, sub-chapter, sections, sub-sections, etc., unless there is another definition for the "United States" for that specific chapter, sub-chapter, section, sub-section, etc."

Sec. 7701 Definitions: (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -(9) United States. The term "United States" when used in the geographical sense includes only the States and the District Of Columbia.

Section 3121 deals with the Rate of tax, in Subchapter A - Tax on Employees of Chapter 21-Federal Insurance Contributions Act (FICA). This definition is for chapter 21 ONLY. This definition does not apply to any other chapter, subchapter, section subsection, etc.

> *Sec. 3121 Definitions: (e) State, United States and citizen. For purposes of this chapter - (2) United States. The term "United States" when used in the geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*
>
> Section 3306 deals with Chapter 23-Federal Unemployment Tax Act. This definition is for Chapter 23 ONLY. This definition does not apply to any other chapter, subchapter, section subsection, etc.
>
> *Sec. 3306 Definitions: (j) State, United States and citizen. For purposes of this chapter - (2) United States. The term "United States" when used in the geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*
>
> "United States Person" Also see "Person", "Foreign person" This definition is from the general definition section of the IRC, Chapter 79. This definition is to be use in all chapters, sub-chapter, sections, sub-sections, etc., unless there is another definition for the "United States person" for that specific chapter, sub-chapter, section, sub-section, etc."

From these citations, we can clearly infer that ***jurisdiction and geography are the foundation of all laws!*** That is why references to legitimate "sources" of tax are so important and why they can't be ignored, even though the Congress and the IRS would like for you to do so! This section also explains the otherwise absurd definitions of the following two terms found earlier in the document:

> ***Employee****: An officer or employee of the federal government (see section 3.11.1.3 and 26 U.S.C. § 3401(c))*
>
> ***State****: The District of Columbia (see section 3.11.1.18 and 26 U.S.C. § 7701).*

5.2.5 Most "Persons" Don't Live in the "United States" according to the tax code

Based on sections 4.8 through 4.9 earlier, we'll admit that it is easy to get confused about which of the three United States a particular section of the tax code is referring to. This kind of confusion was intended by the government, we believe, because that is how they get the wiggle room to deny due process and create a society of men rather than law: writing vague laws that can't stand on their own and require a corrupt member of the legal profession (a "man") to interpret before they can be properly applied. It's quite common for people in the tax honesty movement to argue over the definition of the term "United States" and this kind of argument simply helps to point out the incomprehensibility and deliberate vagueness of the tax code.

Before we proceed, we need to remember that our Congress legislates for *two* jurisdictions. In the United States of America, there are two (2) separated and distinct jurisdictions,

1. The jurisdiction of the states within their own state boundaries. These areas are subject to the sovereignty of the states and the federal government can only have subject mattier but not territorial jurisdiction within these areas.
2. Federal jurisdiction (United States), which is limited to the District of Columbia, the U.S. Territories, and federal enclaves within the states, under Article I, Section 8, Clause 17 of the federal Constitution. These areas are subject only to the sovereignty of the U.S. government, and do not come under the jurisdiction of the states except by mutual agreement between the federal government and a state.

The territorial jurisdiction that all Congressional legislation is intended to apply to absent a *clearly expressed intent to the contrary* is the *second* jurisdiction from above, which are federal properties coming under Article 1, Section 8, Clause 17 of the U.S. Constitution as revealed by the U.S. Supreme Court below in ***U.S. v. Spelar***, 338 U.S. 217 at 222 (1949):

> *"A canon of construction which teaches that of Congress, unless a contrary intent appears, is meant to apply* ***only within the territorial jurisdiction of the United States****."*

The territorial jurisdiction of the United States is the *second* definition from the term "United States" mentioned above in.

As you will learn more fully in later sections of this chapter, the Internal Revenue Code only applies within the *territorial jurisdiction* of the "United States" and has *no jurisdiction* over natural persons (biological people) outside that jurisdiction because of limits on direct taxation found in Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the U.S. Constitution. The term "United States" is defined in the Internal Revenue Code section 7701(a)(9) as:

> *"United States*
>
> *The term "United States" when used in a geographical sense includes only* ***the States*** *and the District of Columbia."*

And in that same section, "State" is defined as follows:

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

You will note that "States" is the plural of "State", and that "State" refers only to the District of Columbia, which is part of the federal zone and is a federal **S**tate. This conclusion is further explained in section 5.6.11.2. But wait, there is only *one* District of Columbia and they used the plural form of "**S**tate" in the definition of "United States". What other federal "**S**tates" do we have? Here they are below in an excerpt from the Buck Act of 1940:

> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
>
> *CHAPTER 4 - THE STATES*
>
> *Sec. 110. Same; definitions*
> ***(d) The term "State" includes any Territory or possession of the United States.***

Notice the title of the Chapter above, which is "The **States**". These are federal states, and the same "the States" appearing in the definition of the term "United States" found in 26 U.S.C. §7701(a)(9) above. These same *federal* **S**tates are also the only **S**tates subject to the federal income tax or the territorial jurisdiction of the federal government! The above is from 4 U.S.C. Sections 104-113, also called the Buck Act of 1940, which was enacted by the federal government to allow states to institute state income or sales taxes inside of federal enclaves within sovereign states or in federal possessions like the Virgin Islands. An "enclave" is property within a sovereign state that has been ceded to the federal government by a state for use, for instance, as a military base or federal courthouse. As we explained in section 4.15, there are 50 artificial or federal "**S**tates" within the borders of the sovereign 50 "**s**tates" under the Buck Act. If we took all of the federal property within one of these sovereign "states" and grouped it together, this would be called a "**S**tate". The definition of "United States" found in the Treasury Regulations confirm our conclusions:

> *26 CFR 1.911-2 Qualified Individuals*
>
> *(g) United States.*
>
> *The term* ***"United States" when used in a geographical sense includes any territory under the sovereignty of the United States****. It includes the states, the District of Columbia, the possessions and territories of the United States, the territorial waters of the United States, the air space over the United States, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States and over which the United States has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.*

Did you notice the Secretary of the Treasury who wrote the regulation above didn't capitalize "the states"? Apparently, the Secretary of the Treasury wanted to avoid confusing the term "the States" found in 26 U.S.C. §7701(a)(9) with the sovereign 50 states so he made it lower case to avoid confusion, because he was the one who had to administer the tax code! Since the sovereign 50 states are not under the sovereignty of the national government, then they are *not* part of the definition of the term "United States" found throughout the Internal Revenue Code! The definition of "territory" as used above from Black's Law Dictionary, Sixth Edition, page 1473 underscores this point:

> ***"Territory**: **A part of a country separated from the rest**, and subject to a particular jurisdiction. Geographical area under the jurisdiction of another country or sovereign power.*
>
> ***A portion of the United States not within the limits of any state, which has not yet been admitted as a state of the Union**, but is organized with a separate legislature, and with executive and judicial powers appointed by the President."*

In the case of the current United States (the country), therefore, federal **territories** include Guam, the Virgin Islands, or Puerto Rico. You don't therefore live in the "United States" defined in the tax code and you probably never have!

Going back to the definitions of "Untied States" and "State" again found in 26 U.S.C. 7701(a)(9)-(10) above, then by the rules of statutory construction, the plural of the word "State" may not have a different meaning or category than the singular of a word. The definition of "United States" also cannot have *two* different meanings either that depend on the context used, meaning that it can't mean the *federal zone* for individuals and the geographical United States* (the entire country) for other artificial entities, because Section 7701(a)(9) doesn't provide *two* definitions or contexts. It can *only* have *one* meaning that can consistently be applied throughout the Internal Revenue Code.

Do either the definition of "United States" or "State" above express a *clear intent* to apply to areas *outside* the federal zone (federal properties coming under Article 1, Section 8, Clause 17 of the U.S. Constitution)? The answer is NO! Therefore, the term "United States" can *only* mean the "federal zone" within the context of the entire Internal Revenue Code as per ***U.S. v. Spelar***, 338 U.S. 217 at 222 (1949). We have no choice, as per the rulings of the Supreme Court, to reach any other conclusion. We wish to emphasize, however, that there are exceptions to this rule, as found in 26 U.S.C. §3121 and 26 U.S.C. §4612. These sections redefine the term "United States" within selected portions of the code and for special purposes related to excise taxes and FICA taxes. We therefore must conclude that the income tax, *by default* and absent an alternate definition of "United States", *only* applies in the District of Columbia and other portions of the federal zone, based on the definitions above, and that the only exceptions to this conclusion are those portions of the Internal Revenue Code which use another definition of the term "United States"! 40 U.S.C. §255 puts the nail in the coffin on this issue, in defining the extent of criminal jurisdiction of the "United States**" government:

> ***United States Code***
> ***TITLE 40 - PUBLIC BUILDINGS, PROPERTY, AND WORKS***
> ***CHAPTER 3 - PUBLIC BUILDINGS AND WORKS GENERALLY***
>
> ***40 U.S.C. Sec. 255. Approval of title prior to Federal land purchases; payment of title expenses; application to Tennessee Valley Authority; Federal jurisdiction over acquisitions***
>
> *Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.*
>
> *The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.*
>
> *Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may*

> *request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.*
>
> *Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency.*
>
> *The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority.*
>
> *Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated.* ***Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.***

(Don't confuse yourself. The above use of the word "State" is different from that in Title 26, the I.R.C. It means the states of the Union and not the federal states.) So there you have it above! The United States government does ***not*** have ***territorial jurisdiction*** over any land within the states of the union not explicitly ceded to it in writing by the state. Why then would it have any jurisdiction over your *private property* or residence within a state, which also was never ceded to the federal government *in writing*? Worse yet, why would they have any jurisdiction over *you* if you weren't a U.S. citizen and were instead a U.S. national? The answer is the U.S. government's jurisdiction inside the states on land outside the federal zone doesn't exist, other than to regulate and tax foreign commerce! Only the states have territorial jurisdiction there.

Another issue to consider is deciding whether "United States" means the "District of Columbia" or the "federal zone" is the definition of the term "employee" we will talk about later in section 5.2.10. Here's the definition from 26 CFR § 31.3401(c):

> *26 CFR § 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."*

Here's what the code says about such officer "employees", and note that they all work *only* in the ***District of Columbia***:

> *United States Code*
> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
> *CHAPTER 3 - SEAT OF THE GOVERNMENT*
> *§ 72. Public offices; at seat of government.*
>
> *All* ***offices*** *attached to the seat of government* ***shall be exercised in the District of Columbia, and not elsewhere****, except as otherwise expressly provided by law.*

Another reason that the term "United States" found in 26 U.S.C. §7701(a)(9) cannot mean areas outside the federal zone are the following two portions of the Constitution of the United States of America:

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

To tax wages earned from interstate commerce or exporting from a State to a foreign country would amount to an indirect duty on exports in violatin of the above clause of the Constitution.

Some people look at the above logic, and then say that the U.S. Supreme Court has already ruled that the income tax is an *indirect excise tax and that indirect taxes can apply anywhere throughout the country under Article 1, Section 8, Clause 1 of the U.S. Constitution* and that the Internal Revenue Code can therefore only define "United States" as applying to the entire country rather than just the federal zone. However, the excise taxes on petroleum found in Subtitle D (sections 4041 through 5000 of the Internal Revenue Code)) use a *different* definition of the term "United States" found in 26 U.S.C. Section 4612 that ***does*** explicitly indeed include nonfederal areas (referred to as the "50 states")!

> *Title 26*
> *Subtitle D-Miscellaneous Excise Taxes*
> *Chapter 38-Environmental Taxes*
> *Subchapter A- Tax on Petroleum*
> ***26 U.S.C. Sec. 4612(a)(4) - United States***
>
> *(A) In general*
>
> *The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands*

How come the U.S. government can apply the excise tax on gasoline legally within the borders of sovereign states? Because most of the gasoline is *imported* (foreign commerce) and the federal government has subject matter (but not territorial) jurisdiction and regulatory authority within the borders of the sovereign states to regulate *foreign commerce* under Article 1, Section 8, Clause 3 of the U.S. Constitution. The power to regulate also implies the power to tax.

Indirect excise taxes (such as petroleum taxes found in Subtitle D of the Internal Revenue Code) are taxes on the exercise of privileges by other than natural people. Indirect excise taxes involving foreign commerce apply *anywhere* in the country to those *artificial "persons"* who are *liable*, including the continental United States, Alaska, and Hawaii. The important thing to remember about indirect excise taxes is that they can *only apply* to those artificial entities (businesses, corporations, and partnerships which are the objects of indirect taxation) in receipt of government excise taxable privileges and the Supreme Court has clearly stated in ***Eisner v. Macomber,*** 252 U.S. 189 (1920) that such entities *only include federal corporations* because income is defined as [federal] corporate profit! Since natural persons are *not* federal corporations, then the income tax *doesn't* apply to them and it *doesn't* apply to you and to me because of the restrictions on direct taxation under 1:9:4 and 1:2:3 of the U.S. Constitution. To put it another way, the federal government has no subject matter or territorial jurisdiction to assess income taxes on natural persons outside of the federal zone and inside the 50 sovereign states and this restriction comes directly form the U.S. Constitution.

Getting back to the Buck Act of 1940 and these federal "**S**tates" , the question is, are the 50 sovereign "**s**tates" possessions or territories of the "United States**". The answer is emphatically **NO**. The 50 "states" of the United States *of America* are sovereign and are foreign jurisdictions with respect to the federal government and with respect to each other, as shown below:

> *Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 5th Edition)*
>
> *Foreign Laws: "The laws of a foreign country or sister state." (Black's Law Dictionary, 6th Edition)*

As we read the above, we should recognize that *what makes the federal and the state governments "foreign" with respect to each other is that they are mutually exclusive territorial jurisdictions and each have sovereignty within their respective territories*. Because they are mutually exclusive territorial jurisdictions, that is why the U.S. Constitution requires the states to collect taxes for the federal government through apportionment in 1:9:4 and 1:2:3. Thomas Jefferson confirmed this

> *"With respect to our State and federal governments, I do not think their relations are correctly understood by foreigners. They generally suppose the former subordinate to the latter. But this is not the case. They are co-ordinate departments of one simple and integral whole. To the State governments are reserved all legislative and administration, in affairs which concern their own citizens only, and to the federal government is given whatever concerns foreigners, or the citizens of the other States; these functions alone being made federal.* ***The one is domestic, the other the foreign branch of the same government; neither having control over the other, but within its own department****." -- Thomas Jefferson ["Writing of Thomas Jefferson" pub by Taylor & Maury, Washington DC, 1854, quote number VII 355-61, from correspondence to Major John Cartwright, June 5, 1824.]*

The above conclusions of Thomas Jefferson are no accident. The U.S. Supreme Court very eloquently described why we have such a separation of powers between the federal and state governments and why they must be foreign with respect to each other in the case of ***U.S. v. Lopez***, 514 U.S. 549 (1995):

> *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.*

Therefore, the Internal Revenue Code DOES NOT apply to you, as it is a *municipal tax* that applies only on federal property, having territorial jurisdiction *only* within the District of Columbia and other federal possessions, territories, and federal enclaves within the sovereign states and hereafter referred to as the "federal zone". This is no accident, but is a direct result of the restrictions imposed on the U.S. Government in Article 1, Section 8, clauses 1 and 3 of the U.S. Constitution. The Federalist Paper No. 36 drafted by the founding fathers confirms the limited ability of the federal government to tax individuals within the borders of the sovereign states:

> *"The more intelligent adversaries of the new Constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call INTERNAL and EXTERNAL taxation. The former they would reserve to the State governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the federal head.", Alexander Hamilton, Federalist 36*

Even if the IRS wants to assert that you are a citizen of the United States** (which most people are not because they were not born or naturalized inside the federal zone), they will still not be able to extend the jurisdiction of the federal courts or their taxing authority beyond the boundaries of the District of Columbia and foreign lands for the purposes of the Internal Revenue Code because of the above limitations. Incidentally, have you ever asked yourself what the Revenue Code is *Internal* **TO?** It's Internal to the federal zone/United States**! This may have something to do with why the Internal Revenue Code was never enacted into positive law and still stands only as prima facie evidence of law or special/municipal law..because it has no effect on natural born Citizens of the 50 states living outside of the federal zone anyway! The more correct way to refer to yourself is not as a "resident or citizen of the United States**", but as an American Citizen or natural born Citizen of a state of the United States *of America*, which DOES NOT include the District of Columbia or the

federal zone. You are a nonresident alien with respect to the foreign jurisdiction of the United States Internal Revenue Code!

For those of you who STILL don't believe that the "United States**" found in the Internal Revenue Code does NOT include areas outside of the federal zone, one of our readers (thanks Bob Conlon!) did an exhaustive and scholarly study of the I.R.C. at the following web address using their search engine:

http://www4.law.cornell.edu/uscode/26/ch1.html

Based on his findings, the definition of "United States" (sec.3121) that does not explicitly reference the 50 states is used in 29 different sections of the Internal Revenue Code (other than its own definition), ***however the definition that DOES explicitly refer as the "United States" to mean the 50 states, section 4612, is only used 3 times in the whole of TITLE 26, and the cases where it is used refer to excise taxes on gasoline!!!***

It appears that all the sections that have to do with income tax, self- employment tax, etc. refer to 3121 ***AND NOT*** 4612. This is obviously done to obfuscate and confuse and to cause presumption, but the definition is clear as section 4612 will illustrate. It says :

> *Title 26*
> *Subtitle D-Miscellaneous Excise Taxes*
> *Chapter 38-Environmental Taxes*
> *Subchapter A- Tax on Petroleum*
> ***26 U.S.C. Sec. 4612(a)(4) - United States***
>
> *(A) In general*
>
> *The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands*

> *United States Code*
> *TITLE 26 - INTERNAL REVENUE CODE*
> *Subtitle C - Employment Taxes*
> *CHAPTER 21 - FEDERAL INSURANCE CONTRIBUTIONS ACT*
> *Subchapter C - General Provisions*
> ***26 U.S.C. Sec. 3121(e)(2) - United States***
>
> *The term "United States" when used in a geographical sense includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.*

Based on the above two definitions, it ought to be clear that ***Congress knows exactly how to define the term "United States" to include the 50 states when they want to****, and that if they really meant the 50 states in section 3121, they would have said exactly that and eliminated this section and referred to section 4612 instead, BUT THEY DIDN'T by choice and would rather keep you guessing!*

Below are the 'hits' our reader found for both sections 3121 and 4612 of the Internal Revenue Code (Title 26) and each gives the number of times references are made to each of the two definitions in all the code sections where these sections were referenced within the I.R.C. ***This research has made it very clear that if one doesn't live in a federal area but instead in nonfederal areas of the 50 states, no Subtitle A income tax or Subtitle C FICA tax liability exists!***

Table 5-6: References to definition of "United States" in I.R.C.

26 U.S.C./I.R.C. Section Where definitions of "United States" are referred to	*Section Title*	*Number of Section 3121 References (federal zone)*	*Number of Section 4612 References (50 states)*	*Reason*
51	Amount of credit	1	0	Income taxes
162	Trade or business expenses	4	0	Income taxes
176	Payments with respect to employees of certain foreign corporations	1	0	Income taxes
401	Qualified pension, profit-sharing, and stock bonus plans	4	0	Income taxes
403	Taxation of employee annuities	4	0	Income taxes
1402	Definitions a) Net earnings from self-employment	14	0	Income taxes
3101	Rate of tax	4	0	Employment taxes
3102	Deductions of tax from wages	6	0	Employment taxes
3111	Rate of tax	4	0	Employment taxes
3122	Federal service	8	0	Employment taxes
3124	Estimate of revenue reduction	1	0	Employment taxes
3509	Determination of employer liability for certain employment taxes	1	0	Employment taxes
3510	Coordination of collection of domestic service employment taxes with collection of income taxes	1	0	Employment taxes
4132		0	1	Definitions
4662	Definitions and special rules	0	**1**	Reason: Excise taxes on petroleum

26 U.S.C./I.R.C. Section Where definitions of "United States" are referred to	*Section Title*	*Number of Section 3121 References (federal zone)*	*Number of Section 4612 References (50 states)*	*Reason*
4682	Definitions and special rules	0	**1**	authorized under Article 1, Section 8, Clause 1 of the Constitution
6051	Receipts for employees	6	0	Employment taxes
6413	Special rules applicable to certain employment taxes	6	0	Employment taxes
7701(9)	Definitions	NA	NA	Definitions

As we look at the above table, we should realize that the ONLY source of Congressional jurisdiction to tax derives from Article 1, Section 8, Clauses 1 and 3 of the Constitution, which state:

> *Art. 1, Sect. 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;***
>
> *Art. 1, Sect. 8, Clause 3:* ***To regulate Comm****erce with foreign Nations, and among the several States, and with the Indian Tribes;*

Now if we look at the last sentence in 1:8:1 of the Constitution and then we consider that graduated income taxes are NOT uniform throughout the United States**, but instead are *highly nonuniform* and most oppressive on the rich, then *the graduated income tax instituted on nonresident alien individuals with income "effectively connected with a trade or business in the United States" referenced in 26 U.S.C. §871(b) would be unconstitutional if the definition of "United States" meant the 50 states or the nonfederal areas of the states!* Remember, however, the meaning of "trade or business" from section 3.11.1.21, which is a "word of art" that really means the holding of elected or appointed political office in the U.S. federal government! The only persons who really fit the description of "trade or business" in the U.S. are those who elect or volunteer to be treated that way. No one else really fits that description because Congressmen conveniently excluded their wages from the definition of "wages" found in 26 U.S.C. §3401(a). Hypocrites!

Moving our discussion along, 26 U.S.C. §871(a) applies a 30% flat ***UNIFORM*** tax on income not connected with a U.S. business that is derived from U.S.** sources (in this case, the federal government). This tax applies to federal corporations with income originating within the territorial jurisdiction of the federal government, which is only within the federal zone as per 40 U.S.C. §255. Try to explain that one away. The U.S. supreme Court agreed that taxes that were not uniform throughout the "United States" were unconstitutional outside of the federal United States in the landmark case of ***Pollack v. Farmer's Loan and Trust Company***, 157 U.S. 429, 158 U.S. 601, (1895):

> *"…****the law is invalid, because imposing indirect taxes in violation of the constitutional requirement of uniformity, and therein also in violation of the implied limitation upon taxation that all tax laws must apply equally, impartially, and uniformly to all similarly situated.*** *Under the second head, it is contended that the rule of uniformity is violated, in that the law taxes the income of certain corporations, companies, and associations, no matter how created or organized, at a higher rate than the incomes of individuals or partnerships derived from precisely similar property or business; in that it exempts from the operation of the act and from the burden of taxation numerous corporations,*

> *companies, and associations having similar property and carrying on similar business to those expressly taxed; in that it denies to individuals deriving their income from shares in certain corporations, companies, and associations the benefit of the exemption of $ 4,000 granted to other persons interested in similar property and business; in the exemption of $4,000; in the exemption of building and loan associations, savings banks, mutual life, fire, marine, and accident insurance companies, existing solely for the pecuniary profit of their members,-these and other exemptions being alleged to be purely arbitrary and capricious, justified by no public purpose, and of such magnitude as to invalidate the entire enactment; and in other particulars. "*

Here are a few more examples of constitutional, UNIFORM taxes imposed on people living outside the "United States" (the federal zone), and ALL of them are exactly 30% and are not graduated:

> *26 U.S.C. Sec. 881 Tax on income of foreign corporations not connected with United States business*
>
> *Sec. 1441. Withholding of tax on nonresident aliens*
>
> *26 U.S.C. Sec. 1442. Withholding of tax on foreign corporations*

The authority to regulate commerce defined in 1:8:1 of the U.S. Constitution implies the authority to *tax* that commerce, but the only tax authorized on income in that part of the constitution are excise or privilege taxes based on privileges received from the federal government by elected or appointed officers of the U.S.** government or U.S.** registered corporations (not state corporations). This excludes the vast majority of Americans and businesses, and the IRS and the Congress are loath to admit this.

Here's another interesting tidbit for the benefit of the reader that makes the definitions even more clear. In 26 U.S.C. §3121 (FICA contributions tax), the definition of "State" does not include the 50 States but AFTER a person has submitted or filed an income tax return, described in 26 U.S.C. §6103, the term "State" DOES include the 50 states! Once again, more obfuscation and subterfuge to confuse as to when the 50 states actually apply to the tax code. AFTER you submit a return they gotcha, and then it's o.k. to give the definition that includes the 50 states. So, the tax code even defines specifically what a real state from among the several states is when the authors of the code wanted it to define it clearly.

> *Sec. 3121. Definitions*
> *(e) State, United States, and citizen _*
> *For purposes of this chapter -*
> *(1) State _*
> ***The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.***
> *(2) United States _*
> *The term "United States" when used in a geographical sense _ includes the Commonwealth of Puerto Rico, the Virgin Islands, _ Guam, and American Samoa. An individual who is a citizen of the Commonwealth of Puerto Rico (but not otherwise a citizen of the United States) shall be considered, for purposes of this section, as a citizen of the United States.*
>
> ---
>
> *Sec. 6103. Confidentiality and disclosure of returns and return information*
> ***The term "State" means** -*
> *(A)* ***any of the 50 States,*** *the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and _*

> *(B) for purposes of subsections (a)(2), (b)(4), (d)(1),*
> *() any of the 50 States, the District of Columbia, the*
> *(i) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),*
> *(ii)which imposes a tax on income or wages, and*
> *(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.*

Now are you convinced that what we say is true about the definition of "United States" within the federal income tax laws? Now do you understand why the IRS won't define the term "United States" anywhere on their website or in ANY of their publications or forms relative to Subtitle A Income Taxes? We don't see how you ***couldn't*** be convinced, but if you STILL aren't convinced, we refer you to sections 4.6 and 4.8 earlier for further study on this fascinating subject.

If I'm not the "federal corporate person" mentioned in the missing section of the tax code found in 26 U.S.C. 3797 and pointed to in 4 U.S.C. Sec. 110(a), then why should I even care about what the definition of "United States" is? The reason is that you will *still* need to know what the definition is when you fill out IRS or tax forms, should you be called upon to do so *involuntarily by either your employer or a financial institution or the IRS or your State income taxing authority*. If the tax code doesn't apply to you as a natural person, then you are, for all intents and purposes, *a nonresident alien* of the foreign subject matter jurisdiction of the "United States**" government. We talk about this later in section 5.6.10.9.7 of this book. Furthermore, because direct income taxes (on natural persons) must be *apportioned* outside the federal zone by 1:9:4 (Article 1, Section 9, Clause 4) and 1:2:3 of the U.S. Constitution, then the meaning of "United States" on *any* tax form that is being filled out by a *natural person* can *only* mean "the federal zone". Another reason for this conclusion is that the Supreme Court case of ***Downes v. Bidwell***, 182 U.S. 244 (1901) said that the Bill of rights and the Constitution *do not apply inside the federal zone* under Article 1, Section 8, Clause 17 of the Constitution because the U.S. government is *sovereign* in these areas. Therefore, it's OK for Congress to completely deny all the rights of people living in the federal zone, including taxing them 100% if they want! But outside of the federal zone, the U.S. government is bound by the Constitution! This line of reasoning is precisely why we advocate completely divorcing yourself from your U.S.** citizenship by expatriating and becoming a "U.S. national", in section 8.5.3.13.

So why do banks and employers then expect you, a *natural person* clearly not liable for income tax, to fill out W-8's to make yourself into a nonresident alien just in order to open an account or have a job that doesn't require an SSN or withholding? Because they are either ignorant of the law or have been deceived or intimidated over the years by the legal profession and the government into believing a lie. What can you do to prevent being victimized by this ignorance and deceit on the part of financial institutions and employers and the government? You can make sure you understand that *"United States" means the federal zone on all tax forms you fill out as a natural person*.

> *"A canon of construction which teaches that of Congress, unless a contrary intent appears, is meant to apply* ***only within the territorial jurisdiction of the United States****."*
> ***U.S. v. Spelar****, 338 U.S. 217 at 222 (1949)*

The "territorial jurisdiction of the United States" mentioned above is the federal zone. If someone asks you why you think "United States" means the "federal zone", point them to this chapter, and then show them the definition of "United States" above and explain that it's a misleading and confusing definition that is void for vagueness and therefore forces you to interpret the meaning for yourself, but seems to indicate that the "United States" means the federal zone. You can also tell them that:

- The form (e.g. the W-8) didn't define which of the three "United States" it was referring to in the Supreme Court Case of Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945).
- The Supreme Court has ruled that:

> *"In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that,* ***if doubt exists as to the construction of a taxing statute, the doubt should be***

***resolved in favor of the taxpayer..." Hassett v. Welch**., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938) (emphasis added)*

- The federal Courts have ruled, along with the IRS' own Internal Revenue Manual, that IRS forms and publications *cannot be relied upon to sustain a position*, which means you can't even trust the words or the content of the forms to determine a fact or a belief.
- It doesn't matter what you put on the tax form, because if you were smart, you would put "All rights reserved without prejudice, UCC 1-207", which absolves you from liability for the truth of what is on the form. You simply state that you aren't giving up any rights by signing the form in that way.
- You wrote the word "duress" on the form, so it doesn't matter what you wrote anyway because the form is thereby rendered irrelevant.

5.2.6 The definition of the word "State", key to understanding Congress' limited jurisdiction to tax personal income

In something as important as a Congressional statute, one would think that key terms like "State" would be defined so clearly as to leave no doubt about their meaning. Alas, this is not the case in the Internal Revenue Code ("IRC") brought to you by Congress. *The term "State" has been deliberately defined so as to confuse the casual reader into believing that it means one of the 50 States of the Union, even though it doesn't say "50 States" in so many words.* Throughout this section, we make a distinction between the term "United States***", which includes the 50 states of the union. This area does *not* include the federal areas, enclaves, or possessions or the District of Columbia, which we call the "federal zone". We also use the term "United States**", which means the "federal zone" or area encompassing federal enclaves within states, federal possessions, Guam, Puerto Rico, and the District of Columbia but *not* the sovereign contiguous 50 states. These two terms are in agreement with the *two jurisdictions* within the United States of America defined earlier in section 15.2.5.

For the sake of comparison, we begin by crafting a definition of "State" which is deliberately designed to create absolutely no doubt or ambiguity about its meaning:

> *For the sole purpose of establishing a benchmark of clarity, the term "State" means any one of the 50 States of the Union, the District of Columbia, the territories and possessions belonging to the Congress, and the federal enclaves lawfully ceded to the Congress by any of the 50 States of the Union.*

Now, compare this benchmark with the various definitions of the word "State" that are found in Black's Law Dictionary and in the Internal Revenue Code. Black's is a good place to start, because it clearly defines *two different kinds* of "states". The first kind of state defines a member of the Union, *i.e.*, one of the 50 States which are united by and under the U.S. Constitution:

> *The section of territory occupied by **one of** the United States***. One of the component commonwealths or states of the **United States of America**.*
>
> *[emphasis added]*

The second kind of state defines a federal state, which is entirely *different* from a member of the Union:

> *Any state of the United States**, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession **subject to the legislative authority of the United States**. Uniform Probate Code, Section 1-201(40).*
>
> *[emphasis added]*

This same definition of a federal "State" also appears elsewhere in the U.S. Codes. For instance, it appears as part of the Buck Act of 1940, which is contained in 4 U.S.C. Sections 105-113. 4 U.S.C. Section 110(d) defines "State" as follows:

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

> *CHAPTER 4 - THE STATES*
>
> *(d) The term "State" includes any Territory or possession of the United States.*

Notice carefully that a member of the Union is not defined as being "subject to the legislative authority of the United States". Also, be aware that there are also several *different* definitions of "State" in the IRC, depending on the context. One of the most important of these is found in a chapter specifically dedicated to providing definitions, that is, Chapter 79 (not exactly the front of the book). To de-code the Code, read it backwards! In this chapter of definitions, we find the following:

> *When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -- ...*
>
> *(10) State. -- The term* ***"State" shall be construed to include the District of Columbia****, where such construction is necessary to carry out provisions of this title.*
>
> *[IRC 7701(a)(10)]*
>
> *[emphasis added]*

Already, it is obvious that this definition leaves much to be debated because it is ambiguous and it is not nearly as clear as our "established benchmark of clarity" (which will be engraved in marble a week from Tuesday). Does the definition restrict the term "State" to mean only the District of Columbia? Or does it expand the term "State" to mean the District of Columbia *in addition to* the 50 States of the Union? And how do we decide? ***We would argue the that confusion created by this definition on the part of the authors in Congress is deliberate, because they do NOT want you to know that the correct definition of "State" would clearly demonstrate their lack of jurisdiction to impose income taxes on U.S. Citizens living in the 50 states!***

The California Revenue and Taxation Code (R&TC) has a similar definition of the term "State" that is consistent with the one above but is more clear:

> *17018. "State" includes the District of Columbia, and the possessions of the United States.*
> *[which don't include the 50 sovereign states but do include federal areas within those states]]*

You can read the above for yourself at: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1.

Even some harsh critics of federal income taxation, like Otto Skinner, have argued that ambiguities like this are best resolved by interpreting the word "include" in an expansive sense, rather than in a restrictive sense. To support his argument, Skinner cites the definitions of "includes" and "including" that are actually found in the Code:

> *Includes and Including. -- The terms "includes" 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****.*
>
> *[IRC 7701(c), emphasis added]*

Skinner reasons that the Internal Revenue Code provides for an *expanded* definition of the term "includes" when it is used in other definitions contained in that Code. Using his logic, then, the definition of "State" at IRC Sec. 7701(a)(10) must be interpreted to mean the District of Columbia, *in addition to* other things. But what other things? Are the 50 States to be included also? What about the territories and possessions? And what about the federal enclaves ceded to Congress by the

50 States? If the definition itself does not specify any of these things, then where, pray tell, are these other things "distinctly expressed" in the Code? If these other things *are* distinctly expressed elsewhere in the Code, is their expression in the Code manifestly compatible with the intent of that Code? Should we include also a state of confusion to our understanding of the Code?

Quite apart from the meaning of "includes" and "including", defining the term "include" in an expansive sense leads to an absurd result that is manifestly incompatible with the Constitution. If the expansion results in defining the term "State" to mean the District of Columbia *in addition to* the 50 States of the Union, then these 50 States must be situated *within* the federal zone. Remember, the federal zone is the area of land over which the Congress has unrestricted, exclusive legislative jurisdiction. But, the Congress does not have unrestricted, exclusive legislative jurisdiction over any of the 50 States. It is bound by the chains of the Constitution in this other zone, to paraphrase Thomas Jefferson. Specifically, **Congress is required to apportion direct taxes which it levies inside the 50 States**. This is a key limitation on the power of Congress; it has never been expressly repealed (as Prohibition was repealed).

Other problems arise from Skinner's reasoning. First of all, like so much of the IRC, the definitions of "includes" and "including" are outright deceptions in their own right. A grammatical approach can be used to demonstrate that these definitions are thinly disguised tautologies. Note, in particular, where the Code states that these terms "shall **not** be deemed to **exclude** other things". This is a double negative. Two negatives make a positive. This phrase, then, is equivalent to saying that the terms "shall be deemed to include other things". Continuing with this line of reasoning, the definition of "includes" includes "include", resulting in an obvious tautology. (We just couldn't resist.) Forgive them, for they know not what they do.

The definitions of "includes" and "including" can now be rewritten so as to "include other things otherwise within the meaning of the term defined". **So, what things are otherwise within the meaning of the term "State", if those things are not distinctly expressed in the original definition?** You may be dying to put the 50 States of the Union among those things that are "otherwise within the meaning of the term", but *you* are using common sense. The Internal Revenue Code was not written with common sense in mind; it was written with deception in mind. When the authors want to deliberately confuse and deceive you in order to enlarge their jurisdiction, they will invent a new definition or "term of art" that conflicts with the layman's definition. The rules of statutory construction apply a completely different standard. Author Ralph Whittington has this to say about the specialized definitions that are exploited by lawyers, attorneys, lawmakers, and judges:

> *The Legislature means what it says. If the definition section states that whenever the term "white" is used (within that particular section or the entire code), the term includes "black," it means that "white" is "black" and you are not allowed to make additions or deletions at your convenience. You must follow the directions of the Legislature, NO MORE -- NO LESS.*
>
> *[Omnibus, Addendum II, p. 2]*

Unfortunately for Otto Skinner and others who try valiantly to argue the expansive meaning of "includes" and "including", Treasury Decision No. 3980, Vol. 29, January-December 1927, and some 80 court cases have adopted the restrictive meaning of these terms:

> *The supreme Court of the State ... also considered that the word "including" was used as a word of enlargement, the learned court being of the opinion that such was its ordinary sense.* ***With this we cannot concur****. It is its exceptional sense, as the dictionaries and cases indicate.*
>
> *[Montello Salt Co. v. State of Utah, 221 U.S. 452 (1911)]*
>
> *[emphasis added]*

An historical approach yields similar results. Without tracing the myriad of income tax statutes which Congress has enacted over the years, it is instructive to examine the terminology found in a revenue statute from the Civil War era. The

definition of "State" is almost identical to the one quoted from the current IRC at the start of this chapter. On June 30, 1864, Congress enacted legislation which contained the following definition:

> *The word "State," when used in this Title, shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out its provisions.*
> *[Title 35, Internal Revenue, Chapter 1, page 601]*
> *[Revised Statutes of the United States**]*
> *[43rd Congress, 1st Session, 1873-74]*

Aside from adding "the Territories", the two definitions are nearly identical. The Territories at that point in time were Washington, Utah, Dakota, Nebraska, Colorado, New Mexico, and the Indian Territory.

One of *the* most fruitful and conclusive methods for establishing the meaning of the term "State" in the IRC is to trace the history of changes to the United States Codes which occurred when Alaska and Hawaii were admitted to the Union. Because other authors have already done an exhaustive job on this history, there is no point in re-inventing their wheels here.

It *is* instructive to illustrate these Code changes as they occurred in the IRC definition of "State" found at the start of this chapter. The first Code amendment became effective on January 3, 1959, when Alaska was admitted to the Union:

> *Amended 1954 Code Sec. 7701(a)(10) by striking out "Territories", and by substituting "Territory of Hawaii".*
>
> *[IRC 7701(a)(10)]*

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted to the Union:

> *Amended 1954 Code Sec. 7701(a)(10) by striking out "the Territory of Hawaii and" immediately after the word "include".*
>
> *[IRC 7701(a)(10)]*

Applying these code changes in reverse order, we can reconstruct the IRC definitions of "State" by using any word processor and simple "textual substitution" as follows:

> *Time 1: Alaska is a U.S.** Territory*
>
> *Hawaii is a U.S.** Territory*
>
> *7701(a)(10): The term "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.*

Alaska joins the Union. Strike out "Territories" and substitute "Territory of Hawaii":

> *Time 2: Alaska is a State of the Union*
>
> *Hawaii is a U.S.** Territory*
>
> *7701(a)(10): The term "State" shall be construed to include the Territory of Hawaii and the District of Columbia, where such construction is necessary to carry out provisions of this title.*

Hawaii joins the Union. Strike out "the Territory of Hawaii and" immediately after the word "include":

Time 3: Alaska is a State of the Union

Hawaii is a State of the Union

7701(a)(10): The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

Author Lori Jacques has therefore concluded that the term "State" now includes *only* the District of Columbia, because the former Territories of Alaska and Hawaii have been admitted to the Union, Puerto Rico has been granted the status of a Commonwealth, and the Philippine Islands have been granted their independence (see United States Citizen versus National of the United States, page 9, paragraph 5). It is easy to see how author Lori Jacques could have overlooked the following reference to Puerto Rico, found near the end of the IRC:

*Commonwealth of Puerto Rico. -- Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States** shall be treated as also referring to the Commonwealth of Puerto Rico.*

[IRC 7701(d)]

In order to conform to the requirements of the Social Security scheme, a completely *different* definition of "State" is found in the those sections of the IRC that deal with Social Security. This definition was also amended on separate occasions when Alaska and Hawaii were admitted to the Union. The first Code amendment became effective on January 3, 1959, when Alaska was admitted:

Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Alaska," where it appeared following "includes".

[IRC 3121(e)(1)]

The second Code amendment became effective on August 21, 1959, when Hawaii was admitted:

Amended 1954 Code Sec. 3121(e)(1), as it appears in the amendment note for P.L. 86-778, by striking out "Hawaii," where it appeared following "includes".

[IRC 3121(e)(1)]

Applying these code changes in reverse order, as above, we can reconstruct the definitions of "State" in this section of the IRC as follows:

*Time 1: Alaska is a U.S.** Territory*

*Hawaii is a U.S.** Territory*

3121(e)(1): The term "State" includes Alaska, Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Alaska joins the Union. Strike out "Alaska," where it appeared following "includes":

Time 2: Alaska is a State of the Union

*Hawaii is a U.S.** Territory*

3121(e)(1): The term "State" includes Hawaii, the District of Columbia, Puerto Rico, and the Virgin Islands.

Hawaii joins the Union. Strike out "Hawaii," where it appeared following "includes":

Time 3: Alaska is a State of the Union

Hawaii is a State of the Union

3121(e)(1): The term "State" includes the District of Columbia, Puerto Rico, and the Virgin Islands.

Puerto Rico becomes a Commonwealth. For services performed after 1960, Guam and American Samoa are added to the definition:

Time 4: Puerto Rico becomes a Commonwealth

Guam and American Samoa join Social Security

3121(e)(1): The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Notice carefully how Alaska and Hawaii only fit these definitions of "State" before they joined the Union. ***It is most revealing that these Territories became States when they were admitted to the Union, and yet the United States Codes had to be changed because Alaska and Hawaii were defined in those Codes as "States" before admission to the Union, but not afterwards. This apparent anomaly is perfectly clear, once the legal and deliberately misleading definition of "State" is understood.*** The changes made to the United States Codes when Alaska joined the Union were assembled in the Alaska Omnibus Act. The changes made to the federal Codes when Hawaii joined the Union were assembled in the Hawaii Omnibus Act.

The following table summarizes the sections of the IRC that were affected by these two Acts:

Table 5-7: History of Code Changes for States Joining the Union

IRC Section changed:	*Alaska joins:*	*Hawaii joins:*
----------	------	------
2202	X	X
3121(e)(1)	X	X
3306(j)	X	X
4221(d)(4)	X	X
4233(b)	X	X
4262(c)(1)	X	X
4502(5)	X	X
4774	X	X
7621(b)	X	**<-- Note!**
7653(d)	X	X
7701(a)(9)	X	X
7701(a)(10)	X	X

Section 7621(b) sticks out like a sore thumb when the changes are arrayed in this fashion. The Alaska Omnibus Act modified this section of the IRC, but the Hawaii Omnibus Act did not. Let's take a close look at this section and see if it reveals any important clues:

Sec. 7621. Internal Revenue Districts.

> *(a) Establishment and Alteration. -- The President shall establish convenient internal revenue districts for the purpose of administering the internal revenue laws. The President may from time to time alter such districts.*
>
> *[IRC 7621(a)]*

Now witness the chronology of amendments to IRC Section 7621(b), entitled "Boundaries", as follows:

> *Time 1: Alaska is a U.S.** Territory.*
>
> *<1/3/59 Hawaii is a U.S.** Territory. ("<" means "before")*
>
> *7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district.*
>
> ---
>
> *Time 2: Alaska is a State of the Union.*
>
> *1/3/59 Hawaii is a U.S.** Territory.*
>
> *7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State, Territory, or the District of Columbia, or may unite into one District two or more States or a Territory and one or more States.*
>
> ---
>
> *Time 3: Alaska is a State of the Union.*
>
> *2/1/77 Hawaii is a State of the Union.*
>
> *7621(b): Boundaries. -- For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States.*

The reason why the Hawaii Omnibus Act did not change section 7621(b) is not apparent from reading the statute, nor has time permitted the research necessary to determine why this section was changed in 1977 and not in 1959. After Alaska joined the Union, Hawaii was technically the only remaining Territory. This may explain why the term "Territories" was changed to "Territory" at Time 2 above. However, this is a relatively minor matter, when compared to the constitutional issue that is involved here. There is an absolute constitutional restriction against subdividing or joining **any** of the 50 States, or **any parts** thereof, without the consent of Congress **and** of the Legislatures of the States affected. This restriction is very much like the restriction *against* direct taxes within the 50 States without apportionment:

> *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.*
>
> *[Constitution for the United States of America]*
>
> *[Article 4, Section 3, Clause 1]*
>
> *[emphasis added]*

This point about new States caught the keen eye of author and scholar Eustace Mullins. In his controversial and heart-breaking book entitled A Writ for Martyrs, Mullins establishes the all-important link between the Internal Revenue Service and the Federal Reserve System, and does so by charging that Internal Revenue Districts are "new states" unlawfully established within the jurisdiction of legal States of the Union, as follows:

> *The income tax amendment and the Federal Reserve Act were passed in the same year, 1913, because they function as an essential team, and were planned to do so.* ***The Federal Reserve districts and the Internal Revenue Districts are "new states," which have been established within the jurisdiction of legal states of the Union.***
>
> *[emphasis added]*

Remember, the federal zone is the area of land over which the Congress exercises an unrestricted, exclusive legislative jurisdiction. The Congress does not have unrestricted, exclusive legislative jurisdiction over *any* of the 50 States. It is bound by the chains of the Constitution. **This point is so very important, it bears repeating throughout this book.** As in the apportionment rule for direct taxes and the uniformity rule for indirect taxes, Congress cannot join or divide any of the 50 States without the explicit approval of the Legislatures of the State(s) involved. This means that Congress cannot unilaterally delegate such a power to the President. Congress cannot lawfully exercise (nor delegate) a power which it simply does not have.

How, then, is it possible for section 7621(b) of the IRC to give this power to the President? The answer is very simple: the territorial scope of the *Internal* Revenue Code is the "federal zone". The IRC only applies to the land that is *internal* to that zone. Indeed, a leading legal encyclopedia leaves no doubt that the terms "municipal law" and "internal law" are equivalent:

> *International law and Municipal or internal law.*
>
> *... [P]ositive law is classified as international law, the law which governs the interrelations of sovereign states, and* ***municipal law****, which is, when used in contradistinction to international law,* ***the branch of the law which governs the internal affairs of a sovereign state****.*
>
> *However, the term "municipal law" has several meanings, and* ***in order to avoid confusing these meanings authorities have found more satisfactory Bentham's phrase "internal law,"*** *this being the equivalent of the French term "droit interne,"* ***to express the concept of internal law of a sovereign state.***
>
> *The phrase "municipal law" is derived from the Roman law, and when employed as indicating the internal law of a sovereign state* ***the word "municipal" has no specific reference to modern municipalities, but rather has a broader, more extensive meaning****, as discussed in the C.J.S. definition Municipal.*
>
> *[52A C.J.S. 741, 742 ("Law")]*
>
> *[emphasis added]*

If the territorial scope of the IRC were the 50 States of the Union, then section 7621(b) would, all by itself, render the entire Code unconstitutional for violating clause 4:3:1 of the Constitution (see above). Numerous other constitutional violations would also occur if the territorial scope of the IRC were the 50 States. A clear and unambiguous definition of "State" must be known before status and jurisdiction can be decided with certainty. The IRC should be nullified for vagueness; this much is certain.

After seeing and verifying all of the evidence discussed above, the editors of a bulletin published by the Monetary Realist Society wrote the following long comment about the obvious problems it raises:

> *A serious reader could come to the conclusion that Missouri, for example, is not one of the United States referred to in the code. This conclusion is encouraged by finding that the code refers to Hawaii and Alaska as states of the United States before their admission to the union! Is the IRS telling us that the only states over which it has jurisdiction are Guam, Washington D.C., Puerto Rico, the Virgin Islands, etc.? Well, why not write and find out? Don't expect an answer, though. Your editor has asked this question and sought to have both of his Senators and one Congresswoman prod the IRS for a reply when none was forthcoming. Nothing.*
>
> *And isn't that strange? It would be so simple for the service to reply, "Of course Missouri is one of the United States referred to in the code" if that were, indeed, the case. What can one conclude from the government's refusal to deal with this simple question except that the government cannot admit the truth about United States citizenship? I admit that the question sounds silly. Everybody knows that Missouri is one of the United States, right? Sure, like everybody knows what a dollar is! But the IRS deals with "silly" questions every day, often at great length. After all, the code occupies many feet of shelf space, and covers almost any conceivable situation. It just doesn't seem to be able to cope with the simplest questions!*
> *["Some Thoughts on the Income Tax"]*
> *[The Bulletin of the Monetary Realist Society]*
> *[March 1993, Number 152, page 2]*
> *[emphasis added]*

Although this book was originally intended to focus on the Internal Revenue Code, the other 49 United States Codes contain a wealth of additional proof that the term "State" does not always refer to one of the 50 States of the Union. Just to illustrate, the following statutory definition of the term "State" was found in Title 8, the Immigration and Nationality Act, as late as the year 1987:

> *(36) The term "State" includes* ***(except as used in section 310(a) of title III [8 USCS Section 1421(a)])*** *the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.*
>
> *[8 U.S.C. 1101(a)(36), circa 1987]*
>
> *[emphasis added]*

The "exception" cited in this statute tells the whole story here. In section 1421, Congress needed to refer to courts of the 50 States, because their own local constitutions and laws have granted to those courts the requisite jurisdiction to naturalize. For this reason, Congress made an explicit exception to the standard, *federal* definition of "State" quoted above. The following is the paragraph in section 1421 which contained the *exceptional* uses of the term "State" (*i.e.* Union State, not federal state):

> *1421. Jurisdiction to naturalize*
>
> *(a) Exclusive jurisdiction to naturalize persons as citizens of the United States** is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State ... also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.*
>
> *[8 U.S.C. 1421(a), circa 1987]*
>
> *[emphasis added]*

In a section entitled "State Courts", the interpretive notes and decisions for this statute contain clear proof that the phrase "in any State" here refers to any state of the Union (*e.g.* New York):

> *Under 8 USCS Section 1421, jurisdiction to naturalize was conferred upon* ***New York State*** *Supreme Court by virtue of its being court of record and having jurisdiction in actions at law and equity.* Re Reilly *(1973) 73 Misc 2d 1073, 344 NYS2d 531.*
>
> *[8 USCS 1421, Interpretive Notes and Decisions]*
>
> *[Section II. State Courts, emphasis added]*

Subsequently, Congress *removed* the reference to this exception in the amended definition of "State", as follows:

> *(36) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.*
>
> *[8 U.S.C. 1101(a)(36), circa 1992]*

Two final definitions prove, without any doubt, that the IRC can also define the terms "State" and "United States" to mean the 50 States as well as the other federal states. **The very existence of multiple definitions provides convincing proof that the IRC is intentionally vague, particularly in the section dedicated to general definitions** (IRC 7701(a)). The following definition is taken from Subtitle D, Miscellaneous Excise Taxes, Subchapter A, Tax on Petroleum (which we all pay taxes *at the pump* to use):

> *(A) In General. -- The term "United States"* ***means the 50 States****, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. [!!]*
>
> *[IRC 4612(a)(4)(A), emphasis added]*

Notice that this definition uses the term "means". Why is this definition so clear, in stark contrast to other IRC definitions of the "United States"? Author Ralph Whittington provides the simple, if not obvious, answer:

> *The preceding is a true Import Tax, as allowed by the Constitution; it contains all the indicia of being Uniform, and therefore passes the Constitutionality test and can operate within the 50 Sovereign States. The language of this Revenue Act is simple, specific and definitive, and it would be impossible to attach the "Void for Vagueness Doctrine" to it.*
>
> *[The Omnibus, page 83, emphasis added]*

The following definition of "State" is required only for those Code sections that deal with the sharing of tax return information between the federal government and the 50 States of the Union. In this case, the 50 States need to be mentioned in the definition. So, the lawmakers can do it when they *need* to (and *not* do it, in order to put the rest of us into a *state* of confusion, within a state of the Union):

> *(5) State -- The term "State"* ***means*** *-- [!!]*
>
> ***(A) any of the 50 States****, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands ....*
>
> *[IRC 6103(b)(5), emphasis added]*

It is noteworthy [!!] that these sections of the IRC also utilize the term "means" instead of the terms "includes" and "including", and instead of the phrase "shall be construed to include". It is certainly not impossible to be clear. If it *were*

impossible to be clear, then just laws would not be possible at all, and the Constitution could never have come into existence anywhere on this planet. Authors like The Informer (as he calls himself) consider the very existence of multiple definitions of "State" and "United States" to be highly significant proof of fluctuating statutory intent, even though a definition of "intent" is nowhere to be found in the Code itself. Together with evidence from the Omnibus Acts, **these fluctuating definitions also expose perhaps the greatest fiscal fraud that has ever been perpetrated upon any people at any time in the history of the world**.

Having researched all facets of the law in depth for more than ten full years, we summarize what we have learned thus far with a careful precision that was unique for its time:

> *The term "States" in 26 USC 7701(a)(9) is referring to the federal states of Guam, Virgin Islands, Etc., and NOT the 50 States of the Union. Congress cannot write a* ***municipal law*** *to apply to the individual nonresident alien (natural born Sovereign Citizen of a state) inhabiting the States of the Union. Yes, the IRS can go into the States of the Union by Treasury Decision Order, to seek out those "taxpayers" who are subject to the tax, be they a class of individuals that are* ***United States** citizens****, or* ***resident aliens****. They also can go after nonresident aliens that are under the regulatory corporate jurisdiction of the United States**, when they are* ***effectively connected with a trade or business*** *with the United States** or have made* ***income from a source within the United States*****....*
>
> *[emphasis added]*

Nevertheless, despite a clarity that was rare, author Lori Jacques has found good reasons to dispute even this statement. In a private communication, she explained that the Office of the Federal Register has issued a statement indicating that Treasury Department Orders ("TDO") 150-10 and 150-37 (regarding taxation) were not published in the Federal Register. **Evidently, there are still no published orders from the Secretary of the Treasury giving the Commissioner of Internal Revenue the requisite authority to enforce the Internal Revenue Code within the 50 States of the Union.**

Furthermore, under Title 3, Section 103, the President of the United States, by means of Presidential Executive Order, has no delegated authority to enforce the IRC within the 50 States of the Union. Treasury Department Order No. 150-10 can be found in Commerce Clearinghouse Publication 6585 (an unofficial publication). Section 5 reads as follows:

> *U.S. Territories and Insular Possessions. The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the U.S. Territories and insular possessions and other authorized areas of the world.*

Thus, the available evidence indicates that **the only authority delegated to the Internal Revenue Service is to enforce tax treaties with foreign territories, U.S. territories and possessions, and Puerto Rico**. To be consistent with the law, Treasury Department Orders, particularly TDO's 150-10 and 150-37, needed to be published in the Federal Register. Thus, given the absence of published authority delegations within the 50 States, the obvious conclusion is that the various Treasury Department orders found at Internal Revenue Manual 1229 have absolutely no legal bearing, force, or effect on sovereign Citizens of the 50 States. Awesome, yes? Our hats are off, once again, to Lori Jacques for her superb legal research.

The astute reader will notice another basic disagreement between authors Lori Jacques and this document. Lori Jacques concludes that the term "State" now includes *only* the District of Columbia, a conclusion that is supported by IRC Sec. 7701(a)(10). We, on the other hand, conclude that the term "States" refers to the federal states of Guam, Virgin Islands, etc. These two conclusions are obviously incompatible, because singular and plural must, by law, refer to the same things. (See Title 1 of the United States Code for rules of federal statutory construction).

It is important to realize that both conclusions were reached by people who have invested a great deal of earnest time and energy studying the relevant law, regulations, and court decisions. **If these honest Americans can come to such diametrically opposed conclusions, after competent and sincere efforts to find the truth, this is all the more reason why the Code should be declared null and void for vagueness.** Actually, this is all the more reason why we should all

be pounding nails into its coffin, by every lawful method available to boycott this octopus. The First Amendment guarantees our fundamental right to boycott arbitrary government, by our words and by our deeds.

Moreover, the "void for vagueness" doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any criminal accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids.

> ***The essential purpose*** *of the "void for vagueness doctrine" with respect to interpretation of a criminal statute,* ***is to warn individuals of the criminal consequences of their conduct****. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law.*
>
> *[U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952), emphasis added]*

If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. In the De Cadena case, the U.S. District Court listed a number of excellent authorities for the *origin* of this doctrine (see Lanzetta v. New Jersey, 306 U.S. 451) and for the *development* of the doctrine (see Screws v. United States, 325 U.S. 91, Williams v. United States, 341 U.S. 97, and Jordan v. De George, 341 U.S. 223). Any prosecution which is based upon a vague statute must fail, together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments. The U.S. Supreme Court has emphatically agreed:

> *[1] That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and* ***a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law****.*
>
> *[Connally et al. v. General Construction Co., 269 U.S. 385, 391 (1926), emphasis added]*

The debate that is currently raging over the correct scope and proper application of the IRC is obvious, empirical proof that men of common intelligence are differing with each other. For example, The Informer's conclusions appear to require definitions of "includes" and "including" which are expansive, not restrictive. The matter could be easily decided if the IRC would instead exhibit sound principles of statutory construction, state clearly and directly that "includes" and "including" are meant to be used in the *expansive* sense, and *itemize* those specific persons, places, and/or things that are "otherwise within the meaning of the terms defined". If the terms "includes" and "including" must be used in the *restrictive* sense, the IRC should explain, clearly and directly, that expressions like "includes only" and "including only" must be used, to eliminate vagueness completely.

Alternatively, the IRC could exhibit sound principles of statutory construction by explaining clearly and directly that "includes" and "including" are always meant to be used in the *restrictive* sense.

Better yet, abandon the word "include" entirely, together with all of its grammatical variations, and use instead the word "means" (which does not suffer from a long history of semantic confusion). It would also help a lot if the 50 **S**tates were consistently capitalized and the federal **s**tates were not. The reverse of this convention can be observed in the regulations for Title 31 (see 31 CFR Sections 51.2 and 52.2).

These, again, are excellent grounds for deciding that the IRC is vague and therefore null and void. Of course, if the real intent is to expand the federal zone in order to subjugate the 50 **s**tates under the dominion of Federal **S**tates (defined along something like ZIP code boundaries *a la* the Buck Act, codified in Title 4), and to replace the sovereign Republics with a monolithic socialist dictatorship, carved up into arbitrary administrative "districts", that is another problem altogether.

Believe it or not, the case law which has interpreted the Buck Act admits to the existence of a "State within a state"! So, which State within a state are you in? Or should we be asking this question: "In the State within which state are you?" (Remember: a preposition is a word you should never end a sentence with!)

The absurd results which obtain from expanding the term "State" to mean the 50 States, however, are problems which will not go away, no matter how much we clarify the definitions of "includes" and "including" in the IRC. There are 49 other U.S. Codes which have the exact same problem. Moreover, **the mountain of material evidence impugning the ratification of the so-called 16th Amendment should leave no doubt in anybody's mind that Congress must *still* apportion all direct taxes levied inside the sovereign borders of the 50 States**. The apportionment restrictions have never been repealed.

Likewise, Congress is not empowered to delegate unilateral authority to the President to subdivide or to join *any* of the 50 States. There are many other constitutional violations which result from expanding the term "State" to mean the 50 States of the Union. In this context, the mandates and prohibitions found in the Bill of Rights are immediately obvious, particularly as they apply to Union State Citizens (as distinct from United States** citizens a/k/a federal citizens). Clarifying the definitions of "includes" and "including" in the IRC is one thing; clarifying the exact extent of sovereign jurisdiction is quite another. Congress is just not sovereign within the borders of the 50 States.

Sorry, all you Senators and Representatives. When you took office, you did *not* take an oath to uphold and defend the Ten Commandments. You did *not* take an oath to uphold and defend the Uniform Commercial Code. You did *not* take an oath to uphold and defend the Communist Manifesto. You *did* take an oath to uphold and defend the Constitution for the United States of America.

It should be obvious, at this point, that capable authors like Lori Jacques and The Informer do agree that the 50 States do *not* belong in the standard definition of "State" because they are in a class that is *different* from the class known as federal states. Here's the way Congressman Barbara Kennelly put in a letter received by one reader?

> *Within the borders of the 50 States, the "geographical" extent of exclusive federal jurisdiction is strictly confined to the federal enclaves; this extent does not encompass the 50 States themselves.*

We cannot blame the average American for failing to appreciate this subtlety. The confusion that results from the vagueness we observe is inherent in the Code and evidently intentional, which raises some very serious questions concerning the *real* intent of that Code in the first place. Could money have anything to do with it? That question answers itself.

For further information about the content of this subsection and the extent of federal jurisdiction, see section 11.3, which is entitled "Federal Territorial Jurisdiction". We also have an exhaustive study into federal jurisdiction found at:

http://familyguardian.tzo.com/Subjects/LegalGovRef/Articles/FedJurisdiction/FedJuris.htm

5.2.7 The definition of "foreign income" relative to the Internal Revenue Code

This subject is really interesting and enlightening and clarifies so much about the applicability of the tax code once you understand it. First let's start with the definition of "foreign" right from the Merriam Webster Dictionary of Law:

> *foreign: not being within the jurisdiction of **a political unit** (as a state)*
>
> esp
> ***:** being from or in a state other than the one in which a matter is being considered*
>
> *Example: a **foreign** company doing business in South Carolina*
> *Example: a **foreign** executor submitting to the jurisdiction of this court*

> *Example: a **foreign** judgment*
> *(compare domestic)*[53]

You will note that the reference in the legal definition of "foreign" is to a *political unit*, and NOT a *country*. The U.S. Codes, title 26, are written by the government of the "United States", which term is defined in 26 U.S.C. §7701 as:

> *United States*
>
> *The term "United States" when used in a geographical sense includes only the States and the District of Columbia.*

And then in 26 U.S.C. §7701 we see the definition of "State" within the internal revenue code:

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

The "State" above is a Federal State, not a sovereign state as shown below:

> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
>
> *CHAPTER 4 - THE STATES*
>
> *Sec. 110. Same; definitions*
> ***(d) The term "State" includes any Territory or possession of the United States.***

Therefore, the real meaning of "United States" is:

> *United States*
>
> *The term "United States" when used in a geographical sense includes federal **S**tates and the District of Columbia, all of which are subject to the sovereignty and exclusive jurisdiction of the United States as described under Article 1, Section 8, Clause 17 of the U.S. Constitution.*

This definition agrees with that of section 4.8, entitled "The Federal Zone". The only thing the U.S. Congress has exclusive *jurisdiction* over is the "federal zone", which includes the District of Columbia and the federal enclaves, possessions, and territories and not the sovereign states directly.

With the above background out of the way, we are now left to consider the true legal meaning of the term "foreign". Since foreign means "not being within the jurisdiction of a political unit" and the political unit in question is the seat of government found geographically only in the District of Columbia and called the "United States", then according to the Internal Revenue Code, all income that originates from outside the District of Columbia (or the federal zone) is FOREIGN INCOME! The IRS' own publications confirm this. In Publication 54, on page 12 of the year 2000 version says:

> *A "foreign country" usually is any territory (including the air space and territorial waters) under the sovereignty of a government other than that of the United States.*
>
> *[…]*
>
> *The term "foreign country" does **not** include Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, or U.S. possessions such as American Samoa. For purposes of the foreign earned income exclusion, the foreign housing*

[53] Merriam-Webster's Dictionary of Law ©1996.

> *exclusion, and the foreign housing deduction, the terms "foreign," "abroad," and "overseas" refer to areas outside the United States, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, Puerto Rico, the Virgin Islands, and the Antarctic region.*

The above citation also appears in the regulations at 26 CFR § 1.911-2(h):

> *(h) Foreign country.*
>
> *The term "foreign country when used in a geographical sense includes any territory under the sovereignty of a government other than that of the United States. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States), the air space over the foreign country, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.*
>
> *(Sec. 911 (95 Stat. 194; 26 U.S.C. 911) and sec. 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954)*
>
> *[T.D. 8006, 50 FR 2965, Jan. 23, 1985]*

Interestingly, the 50 states of the United States of America qualify entirely and completely as foreign countries under the IRS' own definition above right from their Publication 54 and 26 CFR §1.911-2(h)! That is why we can legitimately file as *nonresident aliens*. We discuss and explain this completely in section 5.3 entitled "Know Your Proper Filing Status by Citizenship and Residency!" Below are a few definitions from Black's Law Dictionary which confirm these conclusions:

> *Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 5th Edition)*
>
> *Foreign Laws: "The laws of a foreign country or sister state." (Black's Law Dictionary, 6th Edition)*
>
> *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, 6th Edition)*

You will note that the legal profession has been systematically hiding realities like the above over time. For instance, the Sixth and Seventh editions of Black's Law Dictionary have the term "Foreign government" removed from their dictionary after they had it in the Fifth edition. Likewise, the Seventh Edition removed the definition for the term "United States", even though it was in the Sixth edition. Could there be a conspiracy afoot here by the legal profession to extend the jurisdiction of the U.S. government beyond its rightful bounds and to make everyone a slave to the income tax?

Another way of looking at this is that the "United States" is a small geographic area that is a "subcontractor" to the States of the nation, and all the States are legally "foreign" from the federal government as far as the income tax laws are concerned. The "contract" that binds the States to the federal government is the "U.S. Constitution", the U.S. Codes, and the Uniform Commercial Code (UCC). That's why Congress puts source rules for taxable income under section 861 within the following hierarchy in the tax code:

United States Code
- 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

§ 861. Income from sources within the United States.

Interestingly, Title 26 doesn't even define the meaning of the phrase "foreign income" but does define "foreign corporation" and "domestic corporation". Even more interesting is the fact that the title of Part I under versions of the code prior to 1988 was "*Determination of sources of income*", which we describe in section 6.3.5 as one of Congress' cover-ups. After that, Congress added the word "foreign" to hide the truth better. We are then left to believe with the new title of this section and earlier discussion that "foreign income" is anything that either comes from a foreign corporation or from an individual or person residing anywhere outside of the "federal zone", which is the District of Columbia and federal possessions. We must conclude this because of the definition of the term "United States" in 26 U.S.C. 7701 and the fact that the federal zone is the only area over which the federal government has exclusive jurisdiction and is sovereign. However, most people fall back on the common definition of the term "foreign" found in the layman's (nonlegal) dictionary, which only confuses the average person and deceives them into reaching the wrong conclusion. The layman's definition of "foreign" is:

> *Foreign: 1: situated outside a place or country; esp: situated outside one's own country. 2: born in, belonging to, or characteristic of some place or country other than the one under consideration.*[54]

Did you notice the BIG difference between the legal definition of "foreign" and the everyday, more common definition of "foreign"? Of the two definitions of "foreign", the correct definition is the *legal* definition and not the layman's definition. If you have learned anything by now, it should be that you should always use the legal definition and ignore layman's dictionaries when reading the law or you will deceive yourself about the jurisdiction of the law. Can you see how the IRS and Congress might want you to use or believe the layman's version of the word instead of the legal version of it? It would certainly benefit them from a tax collection standpoint! If you think like most people mistakenly do that "foreign" is relative to *your country* instead of relative to the federal *United States (District of Columbia)*, then you will think that Part I of the Internal Revenue Code doesn't apply to you as a Citizen of the 50 United States with income from the 50 states! You will therefore instead have to refer to section 61 of the IRC which talks about "gross income" as being *any* type of income and with no definition of the word "source" to go from. And since Congress removed the pointer in section 61 of the IRC back to section 861 in about 1982, you won't even *think* to look in section 861 to determine taxable sources of income!

There's a reason why the wording of the Internal Revenue Code hasn't changed significantly since the code was enacted in 1921, because the law is very carefully and deceitfully crafted to cover-up and obfuscate the truth about income tax liability. In the following sections and especially in our discussion of "taxable sources" or "sources", keep this definition of "foreign" in the back of your mind so the meaning and significance of IRC Section 861 is clear! We also talk more about this in section 3.11.1.2 "'Domestic' (in 26 U.S.C. §7701(a)(4))" and section 3.11.1.5: "'Foreign' (in 26 U.S.C. §7701(a)(5))". The below court ruling helps clarify the meaning of the terms "foreign" and "domestic" (derived from section 5.9) and also explains why the Internal Revenue Code had to explicitly define the meaning of the term "foreign corporation" but not define the meaning of the word "foreign":

> *"The United States government is a foreign corporation with respect to a state."*
> ***N.Y. re: Merriam**, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287*

Once again, we'd emphasize that the "void for vagueness" doctrine discussed in section 5.22 (entitled "Why the 'Void for Vagueness Doctrine' should be invoked by the courts to render the Internal Revenue Code Unconstitutional in Total") really applies here, and that the Internal Revenue Code ought to be nullified by the courts because of vagueness, on something as simple as the definition of "foreign income". That term needs to be much better defined to prevent unnecessary litigation or misinterpretation, because absent a proper legal definition, the only thing we have to relate to that is defined is "foreign corporation". We are then lead to believe based on the above definitions that ALL income of U.S. citizens that originates from outside the District of Columbia and other parts of the "federal zone" (foreign to the political unit of the "United States" federal government) is "foreign income". And our interpretation must stick, because according to the U.S. Supreme Court:

[54] Webster's Ninth New Collegiate Dictionary, 1983, Merriam-Webster, p. 483.

> *"...if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer..."*
> ***Hassett v. Welch**., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938)*

5.2.8 Background on State vs. Federal Jurisdiction

The States are sovereign over their territories, as is the U.S. Government over its territories and lands. The States control everything within their borders. The federal government exclusively controls everything within the District of Columbia and all federal possessions and enclaves within the state, collectively called the "federal zone". The federal zone does NOT include the 50 **s**tates but does include "the **S**tates". The definition of "State" in IRC section 7701(a)(10) and 4 U.S.C. 110(d) and the definition of "United States" found in IRC section 7701(a)(9) all agree with this conclusion that the jurisdictions of the **s**tate and Federal Governments are mutually exclusive territorially.

> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
>
> *CHAPTER 4 - THE STATES*
>
> *Sec. 110. Same; definitions*
> ***(d) The term "State" includes any Territory or possession of the United States.***

As we pointed out in section 3.11.1.22, the definition of the term "United States" only includes the federal territories and the District of Columbia, including Puerto Rico, Guam, etc, which are all part of the "federal zone" . All subtitles A through C income tax laws passed by the U.S. government can therefore ONLY apply to the "federal zone" and not to areas such as the 50 states where the federal government doesn't have complete and exclusive jurisdiction. If one of the 50 states wants to tax the federal government, then the federal government must consent to it. Likewise, if the federal government wants to tax one of the 50 States or citizens in one of the 50 States, then the State and/or the Citizen in the State must consent to it because both the States and the Citizens in the states are Sovereign. There is a longstanding separation between the **s**tate and Federal governments or "political units". That separation is so distinct, that the **s**tates and the incomes of the Americans in each **s**tate are "foreign" with respect to each other's jurisdictions. Likewise the income of Americans of the 50 **s**tates is "foreign" with respect to the jurisdiction of the United States** (the federal zone). The below court finding of the Supreme Court helps to justify and clarify this conclusion:

> *"The United States government is a foreign corporation with respect to a state."*
> ***N.Y. re: Merriam**, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287*

This conclusion is also in agreement with what happened during the Revolutionary war. Britain had to sign treaties separately with each of the 13 colonies to end the war, rather than with the United States Government alone, because each state was sovereign!

There are two exceptions to this mutual exclusivity of territorial jurisdiction between state and Federal Governments. The first exception is a product of Article 1, Section 8, Clause 3 of the U.S. Constitution:

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

This means the federal government can, for instance, regulate weights and measures, transportation, and communication systems which facilitate commerce among the several states.

The second point of overlap of jurisdiction is the occurrence of federal possessions *within* the 50 states. This includes such things as military bases, Indian Reservations, Post Offices, National Parks, etc. The Internal Revenue Code actually refers to these areas as "States" in section 7701(a)(10). All of these areas are described as "enclaves" within states and count as federal territory over which Congress and the U.S. Government have exclusive jurisdiction and control and which are part of the "federal zone". If you took all of the federal enclaves within a sovereign state and collected them together, that area would be referred to as a "State" within 26 U.S.C. §7701(a)(10) and the Buck Act found in 4 U.S.C. 110(d).

Other than these two exceptions, the Federal Government has no Constitutional authority within the borders of the 50 States outside of the "federal zone".

5.2.9 Congress' Right to Tax Imports (duties), Foreign Income of Citizens, and Citizens Living Abroad

While the general power to "lay and collect taxes" (U.S. Constitution, Article I, Section 8, Clause 1) combined with the power to "regulate commerce with foreign nations" (U.S Constitution, Article I, Section 8, Clause 3) undoubtedly gives Congress the power to impose an income tax on income derived from foreign commerce (***William E. Peck & Co. v. Lowe***, 247 U.S. 165 (1918)), mere receipt of income from intrastate commerce cannot be a proper subject of a federal excise tax. This restriction exists because of Article 1, Section 9, Clause 5 of the U.S. Constitution, which states:

> *No Tax or Duty shall be laid on Articles exported from any State.*

Both the Supreme Court (***Stanton v. Baltic Mining*** (240 U.S. 103)) and the Secretary of the Treasury (Treasury Decision 2303) agree that the income tax is in fact an "indirect" excise.

The status of being a U.S. citizen (that is, a person born or naturalized in the District of Columbia or other federal territory) creates a means for the U.S. government to tax that citizen regardless of where they live. Note that this only applies to those who legitimately are 14th Amendment "U.S.** citizens", which most are not. Most persons born on nonfederal land in the 50 sovereign states are, in fact, "U.S. nationals" by law, as defined in 8 U.S.C. 1408 and 8 U.S.C. §1101(a)(21) through 8 U.S.C.. §1101(a)(22). In the U.S. Constitution Annotated, under the Fifth Amendment (see http://caselaw.lp.findlaw.com/data/constitution/amendment05/13.html - 6) , here is what it says about this subject:

> *In laying taxes, the Federal Government is less narrowly restricted by the Fifth Amendment than are the States by the Fourteenth.* ***The Federal Government may tax property belonging to its citizens, even if such property is never situated within the jurisdiction of the United States****,[55] and it may tax the income of a citizen resident abroad, which is derived from property located at his residence.[56] The difference is explained by the fact that protection of the Federal Government follows the citizen wherever he goes, whereas the benefits of state government accrue only to persons and property within the State's borders.*

However, the above findings do not translate into a power by Congress to tax natural persons inside the 50 sovereign states and outside the federal zone, because of the limitations on direct taxes found in Article 1, Section 9, Clause 4, and Article 1, Section 2, Clause 3 of the U.S. Constitution. This means that no federal territorial jurisdiction for direct taxes exist in the 50 states for natural persons. Likewise, even though the U.S. government has jurisdiction for direct taxes overseas, the income must still derive from taxable sources identified in 26 U.S.C. §862, which then points to 26 CFR § 1.861-8(f) as the implementing regulation for determining taxable sources of income.

The Code of Federal Regulations, when published in the Federal Register, are the official notification to the public of what the law requires of them (44 USC). These regulations must give specifics. For decades, the regulations defining "gross income" specifically stated that income of "persons" (artificial entities such as corporations and partnerships) derived from "foreign commerce" must be included in their "gross income," and also described income of foreigners, and income of those who receive most of their income from federal possessions (Regulations 62, Article 31 (1922), 26 CFR § 39.22(a)-1 (1956)).

Congress cannot gain jurisdiction over an event, or regulate an event not otherwise constitutionally under federal jurisdiction (such as intrastate commerce), simply by exerting such control via taxation legislation. "To give such magic to the word 'tax' would be to break down all constitutional limitation of the powers of Congress" (***Bailey v. Drexel Furniture Co.***, 259 U.S. 20 (1922)), and such a law "cannot be sustained as an exercise of the taxing power of Congress conferred by

[55] United States v. Bennett, 232 U.S. 299, 307 (1914).
[56] Cook v. Tait, 265 U.S. 47 (1924).

section 8, article 1" (***Hill v. Wallace***, 259 U.S. 44 (1922)). This is not to say that the income tax is in any way invalid; it is merely to show why the income tax statutes and regulations themselves limit the tax to those engaged in international or foreign commerce.

For further study on the right of Congress to tax federal/U.S.** citizens living abroad, who are called "nonresident citizens", we refer you to the Supreme Court case of ***Cook v. Tait***, 265 U.S. 47, 1924 and to IRS Publication 54.

5.2.10 Most People Aren't "Employees" as Defined in the Internal Revenue Code

Most people are shocked to learn that they are not considered "employees" as defined in the Internal Revenue Code. IRC section 3401(c) provides the following definition of "employee" within the context of income tax withholding:

> *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 [federal] 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.***

> *8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267*
>
> ***Employee**: "The term employee **specifically includes** officers and employees **whether elected or appointed**, of the United States, a state, territory, or political subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing."*

> *26 CFR § 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? You aren't considered an employee as far as payroll deductions unless you are an officer, an appointee, or elected official of the United States who is in direct receipt of government privileges! This is because the income tax is an excise/privilege tax according to the U.S. Supreme Court and the Congressional Research Service. But then the IRS will deny adamantly that the income tax is an excise/privilege tax if you ask them. Self-serving hypocrites! That means the U.S. Government has no authority whatsoever to be telling private employers to withhold pay or hold them liable for not withholding! Likewise, if you aren't an "employee", then the person you work for also isn't an "employer", as defined in section 3401(d) of the IRC!

Even more interesting is the definition of "employee" found in 5 U.S.C. Sec. 2105:

> *2105. DEFINITIONS*
>
> *(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 CFR § 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) and were directly appointed by the delegated authority of an elected official or elected by the public. Any other situation implies that you are practicing a business trade or profession that does not depend on the taxable privileges incident to political office. Once again, the key to understanding this situation is to recognize that the ***jurisdiction by the government to tax results from the acceptance of government privileges in exchange for consent to waive one's rights to not pay taxes***. The key to staying tax free is to be never accept any government privileges.

The subject of the definition of "employee" above is something that some academics indicate does not include everyone covered by the internal revenue code. They say that the word "includes" as far as the IRC is not meant to be inclusive, but rather "expansive" and that there may be other things the words mean that aren't in the code. This is nonsense, as we explain in section 3.11.1.7 "Includes" and is just meant to in effect deceive people and convince them that they can't trust the law and English language to explicitly define the taxes they owe. The courts have struck this approach down many times over, and conflict of interest and downright greed on the part of federal judges is the only reason they wouldn't strike it down. See 28 U.S.C. 455, which makes such conflict of interest a crime.

5.2.11 The States are Foreign Countries with Respect to the Federal Government

As you will learn in the next section, the several states of the Union of states, collectively referred to as the United States of America or the "freely associated compact states", are considered to be "foreign countries" with respect to the national government. Here is the definition of the term "foreign country" right from the Treasury Regulations:

> *26 CFR 1.911-2(h): The term "foreign country" when used in a geographical sense includes any territory under the sovereignty of a government other than that of the United States**. It includes the territorial waters of the foreign country (determined in accordance with the laws of the United States**), the air space over the foreign country, and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the foreign country and over which the foreign country has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources.*

If we examine other U.S. codes, we find the following hints to confirm the above assertion and conclusion:

> ***TITLE 28 > PART I > CHAPTER 13 > Sec. 297.***

Sec. 297. - Assignment of judges to courts of the freely associated compact states

(a)

The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

(b)

*The Congress consents to the acceptance and retention by any judge so authorized of reimbursement **from the countries** referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection*

Note that Congress, in subparagraph (a) above refers to the "freely associated compact states" in subparagraph (b) as "countries". That is because they fit in every respect the description of "foreign country" found above in 26 CFR 1.911-2(h):

Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 6th Edition)

Why is this important? Because as you will find out below, your income qualifies as "foreign income" and you qualify as a nonresident alien who lives in a foreign country if you were born outside of the federal zone and inside the United States of America. This is important because if you have only income not connected with a "trade or business in the United States" and you are a nonresident alien alien, then your income is not subject to federal income tax:

*Sec. 1.**864-2** Trade or business within the United States.*

*(b) Performance of personal services for foreign employer--(1) **Excepted services**. For purposes of paragraph (a) of this section, **the term ``engaged in trade or business within the United States'' does not include the performance of personal services**--*

*(i) **For a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States at any time during the taxable year,** or*

---

26 CFR § 1.871-7

*Taxation of nonresident alien individuals **not engaged in trade or U.S. business.—***

Imposition of tax. (1) "…a nonresident alien individual…is NOT subject to the tax imposed by Section 1" [Subtitle A, Chapter 1]

Now can you see why our deceitful federal government might not want you to know that as a person living in one of the several states and outside the federal zone, you live in a "foreign country" and are a nonresident alien, and are therefore not liable for federal income taxes?

5.3 Know Your Proper Income Tax Filing Status!

To know how you should file, you must know your proper citizenship status. We cover that subject in great detail in Chapter 4 of this book and before you read this section, if you haven't already, you might want to read Chapter 4 and especially section 4.10 and its subsections. In this section, we'll show you that you have been filing your taxes incorrectly all these years, and that you really needed to be using the IRS Form 2555 AND the form 1040, instead of the form 1040 ONLY if you are claiming to be a "U.S. citizen", which we assert later in this chapter is a very bad idea. This surprises many people, no doubt, to find that they have been filing incorrectly for so long and yet the IRS hasn't corrected them in all these years. Why? Because you will pay considerably *less taxes* if you file in a way that reflects your proper status and the IRS wants your money so it conveniently looks the other way!

We start this subsection off with the notion of "the matrix", which the Bible describes as the Beast. Anyone who has seen the movie called *The Matrix* will understand what we mean when we say that having a Socialist Security Number is the umbilical, or "the Mark of the Beast" described in Revelations 13:16-18 that connects the back of our head into "the matrix" and makes us into slaves and drones of the socialist state and host organisms for the parasite called the U.S. Government. That's why we tell people over and over throughout this book to do everything they can to get rid of the number and avoid using it. Another kind of "matrix" to consider is the one below that defines when we are connected, or subservient to this "matrix" or biblical beast described above through slavery to the income tax. We want to give you plenty of ways to look at this so you understand completely what your obligations are relative to federal taxes:

Table 5-8: "The Matrix" for 26 U.S.C. Subtitle A Income Taxes

	RESIDENCY		
	Federal U.S. resident Living "within the federal U.S.**" as defined in 26 U.S.C. §861	**Federal U.S. nonresident living in 50 states** Living "without the federal U.S.**" as defined in 26 U.S.C. §862	**Living outside of U.S. the country** Living "without the federal U.S.**" as defined in 26 U.S.C. §862
"U.S. citizen" Defined in 26 CFR § 31.3121(e)	1. Usually files form 1040 only. 2. Taxable sources for income derived from place of residency and from U.S. government identified in 26 U.S.C. §861 and implementing regulation in 26 CFR §1.861-8(f). 3. Typically not liable for any Subtitle A income tax because no income under 26 CFR §1.861-8(f). 4. Federal courts have jurisdiction over you because a "U.S. citizen" is defined as someone ***completely subject*** to the sovereignty of the U.S. government.	1. Usually files IRS form 1040 plus IRS form 2555 2. Taxable sources for income derived from place of residency identified in 26 U.S.C. §862 and implementing regulation in 26 CFR §1.861-8(f). 3. Income from U.S. government comes under 26 U.S.C. §861 and must derive from sources in 26 CFR §1.861-8(f) to be taxable. 4. Typically not liable for any Subtitle A income tax because no income under 26 CFR §1.861-8(f). 5. Federal courts have jurisdiction over you because a "U.S. citizen" is defined as someone ***completely subject*** to the sovereignty of the U.S. government. 6. Exemption from gross income for specific amounts specified in 26 U.S.C. §911 and computed on form 2555.	1. Usually files IRS form 1040 plus IRS form 2555 2. Taxable sources for income derived from place of residency identified in 26 U.S.C. §862 and implementing regulation in 26 CFR §1.861-8(f). 3. Income from U.S. government comes under 26 U.S.C. §861 and must derive from sources in 26 CFR §1.861-8(f) to be taxable. 4. Typically not liable for any Subtitle A income tax because no income under 26 CFR §1.861-8(f). 5. Federal courts have jurisdiction over you because a "U.S. citizen" is defined as someone ***completely subject*** to the sovereignty of the U.S. government. 6. Exemption from gross income for specific amounts specified in 26 U.S.C. §911 and computed on form 2555.
"U.S. national" or "Nonresident alien" Defined in 8 U.S.C. §1408, 26 U.S.C. §7701(b)(1)(B), and 26 CFR § 1.1441-1(c)(3)(ii)	1. Usually files form 1040. 2. Taxable sources for income derived from place of residency and from U.S. government identified in 26 U.S.C. §861 and implementing regulation in 26 CFR §1.861-8(f). 3. Typically not liable for any Subtitle A income tax because no income under 26 CFR §1.861-8(f). 4. Federal courts have territorial jurisdiction over you.	1. No liable for income tax with no federal U.S. source income. 2. 26 U.S.C. §871(a) puts a tax of 30% on income from sources "within" the [federal] U.S.** under 26 CFR § 1.861-8(f).	1. No liable for income tax with no federal U.S. source income. 2. 26 U.S.C. §871(a) puts a tax of 30% on income from sources "within" the [federal] U.S.** under 26 CFR § 1.861-8(f).
"Alien"/Foreign national Defined in 26 CFR § 1.1441-1(c)(3)(i)	1. Usually files form 1040 only. 2. Taxable sources for income derived from place of residency and from U.S. government identified in 26 U.S.C. §861 and implementing regulation in 26 CFR §1.861-8(f).	1. Not liable for federal income tax.	1. Not liable for federal income tax.

	RESIDENCY		
	Federal U.S. resident Living "within the federal U.S.**" as defined in 26 U.S.C. §861	**Federal U.S. nonresident living in 50 states** Living "without the federal U.S.**" as defined in 26 U.S.C. §862	**Living outside of U.S. the country** Living "without the federal U.S.**" as defined in 26 U.S.C. §862
	3. Typically not liable for any Subtitle A income tax because no income under 26 CFR §1.861-8(f).		

NOTES:

1. For al the Subtitle A income taxes above, the tax is imposed in 26 U.S.C. §1(1)(1) and 26 CFR §1.1-1(a)(1). It is imposed ONLY on U.S. citizens and on nonresident aliens with income described in 26 U.S.C. §871(b) or 26 U.S.C. §877(b) (Expatriation to avoid tax). It is NOT imposed on nonresident aliens who do not hold public office or who do not have income associated with a "trade or business" in the federal United States, which is the condition that describes most Americans.
2. For all the taxes above, *liability for tax* is created by 26 CFR §1.1-1(b), which is an "illegal regulation" as we describe in section 5.4.1. This regulation is illegal because it exceeds that scope of the statute that it implements found in 26 U.S.C. §1.

5.3.1 Summary of Federal Income Tax Filing Status by Citizenship and Residency

The table below summarizes the federal jurisdiction to tax organized by citizenship and then residency. It presents the previous table in a somewhat different way. Most people are very surprised when they see this, and you will never see this table in any of the IRS Publications, *because they don't want you to know you have been filing incorrectly*! That's why we had to do so much research to write this section and build the table below, because the IRS doesn't want you hearing the truth and has done their best to conceal it:

Table 5-9: Summary of Federal Taxing Jurisdiction by Citizenship and Residency

#	*Citizenship*	*Residence located in:*	*Federal U.S. Residency (federal zone) status*	*I.R. Code Section(s) and IRS Regulations that make you liable for tax*	*Correct Federal Tax form(s)/Pubs*	*Applicable Direct Income taxes*	*Notes*
1	Foreign national	Outside USA	NA	NA	NA	No taxes	No tax liability.
2	Foreign national	50 states	Nonresident				
3	Foreign national	50 states	Resident (by election)	§861 for sources in federal zone/U.S.** §862 for source outside the U.S.**/federal zone. Use 26 CFR § 1.861-8(f) for computing taxable income as per 26 CFR § 1.862-1(b) for sources identified in §861 and §862..	IRS Form 1040NR IRS Form W-8 IRS Form 6450 IRS Publication 519 "U.S. Tax Guide for Aliens"	Worldwide income	Must have green card. Treated same as U.S. citizens.
4	Foreign national	Federal zone	Resident				
5	U.S.** citizen	Outside USA	Nonresident	§911 (citizens or residents of U.S.** living abroad) §861 for sources in federal zone/U.S.** §862 for source outside the U.S.**/federal zone. §871 Applicability of graduated income tax Use 26 CFR § 1.861-8(f) for computing taxable income as	IRS Form 2555 for taxable income from foreign countries IRS Form 1040 for taxable income of elected or appointed U.S.** government officials from within the U.S.**/federal zone;	Graduated tax rate on sum of unearned income worldwide. plus earned income in excess of the exclusion amount of $78,000 plus the cost of housing. Income must come from a taxable source defined in 26 CFR § 1.861-8(f).	IRS publication 54 refers to U.S. citizens living in foreign countries as "Citizens living abroad". Note that states within the union qualify as "foreign countries" by the IRS' own definition in IRS publication 54!
6	U.S.** citizen	50 states	Nonresident			Graduated rate of tax specified in 26 U.S.C. §1 on all taxable income from U.S.**	You must file IRS form 1040's ONLY for income as an elected or appointed U.S.** official in order to claim this status.

#	*Citizenship*	*Residence located in:*	*Federal U.S. Residency (federal zone) status*	*I.R. Code Section(s) and IRS Regulations that make you liable for tax*	*Correct Federal Tax form(s)/Pubs*	*Applicable Direct Income taxes*	*Notes*
7	U.S.** citizen	50 states	Resident (by election)	per 26 CFR § 1.862-1(b) for sources identified in §861 and §862.	IRS Pub 54 "U.S. citizens living abroad"	sources specified in 26 CFR § 1.861-8(f). All other income is tax exempt.	Very few individuals other than elected or appointed officials of the U.S. government and U.S.** registered corporations or partnerships derive *any* income from taxable sources within the context of 26 U.S.C. §861 or §862 or 26 CFR § 1.861-8(f).
8	U.S.** citizen	Federal zone	Resident				
9	Natural Born Citizen Only (U.S. national, U.S.** Alien)	Outside USA	Nonresident	§1 §861 for sources in federal zone/U.S.** §862 for sources "without" the U.S.**/federal zone. §1441 for tax withholding on nonresident aliens. Use 26 CFR § 1.861-8(f) for computing taxable income as per 26 CFR § 1.862-1(b) for source identified in §861 and §862.	IRS Form 1040 for sources identified in 26 CFR § 1.861-8(f). IRS Form W-8 IRS Form 6450 ***NOTE***: DO NOT use W-8 BEN without correcting it! This form is a fraud and makes you liable for tax you don't owe! Only use W-8 or Substitute W-8 on our website in the Income Tax Freedom Forms and Instructions area!	30% tax on all taxable income from U.S.** sources specified in 26 U.S.C. §871(a). Taxable income sources defined in 26 CFR § 1.861-8(f). Graduated rate of tax applies for individuals who elect to treat their taxable income from the above sources as "*effectively connected with a trade or business in the United States***", which is a code word for income derived from holding public office in the U.S. government. All other income is tax exempt.	Also called state citizens living abroad. Note that that states within the union qualify as "foreign countries" by the IRS' own definition in IRS publication 54!
10	Natural Born Citizen Only (U.S. national, U.S.** Alien)	50 states	Nonresident				This is the natural status we are born with, until we sign our first piece of paper we give any government saying we are "U.S. citizens". Note that our parents can sell us into slavery by claiming on THEIR 1040 form that we are "U.S. citizens" while we are less than 18. After that, we take on status #6 above
11	Natural Born Citizen Only (U.S. national, U.S.** Alien)	50 states	Resident (by election)				No green card required. Deportation not possible. U.S.* national U.S.** Alien
12	Natural Born Citizen Only (U.S. national, U.S.** Alien)	Federal zone	Resident				

NOTES:

1. Definitions of "United States":

1.1. U.S.*= United States the country (in the family of nations)
1.2. U.S.** = the federal zone=District of Columbia and all federal territories, possessions, and enclaves.
1.3. U.S.*** = the contiguous 50 states of the union outside the federal zone.

2. A person who is a "Citizen of the United States of America" (a state-only citizen) is referred to as a "U.S. national" but *not* a "U.S. citizen".
3. Foreign national is someone who is a citizen of another country that is outside of the 50 contiguous states of the union.
4. Foreign aliens are typically citizens of other countries who are living in the 50 States United States of America.
5. The Fourteenth Amendment made everyone born or naturalized in the United States** into citizens of the United States** (and by implication, the United States* and United States***) and the State wherein they reside as follows:

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

6. ***If you examine 26 CFR § 1.861-8(f), which is used for identifying and computing taxable income for ALL sources both within and without the "United States**", you will note that the taxable sources (and all of the examples given in that section) are restricted to those involved in government privileged activities subject to indirect excise taxation. Such activities include [are limited to] service as an elected or appointed officer of the U.S. government, an officer of U.S.** registered corporations. This is not a mistake or an oversight, but a direct result of the fact that the income tax, according to the Supreme Court, is and always has been an indirect excise tax. U.S. Supreme Court rulings over the years have always identified Subtitle A income taxes as indirect excise taxes, both before and after the passage of the 16th Amendment (see section 5.1.2 for further details on this). These conclusions also agree with Congressional Research Service Report 97-59A appearing later in section 10.1, which is the very same report that Congressmen send their constituents when they get questions about income taxes. The rate of tax is determined by 26 U.S.C. Section 871 for nonresident aliens and 26 U.S.C. Section 1 for U.S.** citizens residing in the U.S.**. If you file a 1040 form, then you elect to use 26 U.S.C. Section 1 to compute your rate of tax. If you file a 1040NR, then you are using 26 U.S.C. Section 871(a) to compute the tax rate for income from sources without the "United States" and the rate is 30%. The graduated rate of tax on nonresident aliens found in 26 U.S.C. Section 871(b) only applies to elected or appointed political officials of the U.S. government. Once again, we'd like to review the meaning of "trade or business" as defined in 26 U.S.C. §7701(a)(26):***

> *26 U.S.C. §7701(a)(26) Definitions.* ***Trade or Business.*** *The term "trade or business" includes [only] the performance of the functions of a* ***public office."***

> ***26 U.S.C. §871(b)(2)-GRADUATED RATE OF TAX…***
>
> ***"(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."***

Following is a definition of "public office":

Public Office, pursuant to Black's Law Dictionary, Abridged 6th Edition, means:

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

(1) Authority conferred by law,
(2) Fixed tenure of office, and
*(3) Power to exercise some of the sovereign functions **of government**.*
(4) Key element of such test is that "officer is carrying out a sovereign function'.
(5) Essential elements to establish public position as 'public office' are:
(a) Position must be created by Constitution, legislature, or through authority conferred by legislature.
(b) Portion of sovereign power of government must be delegated to position,
(c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
(d) Duties must be performed independently without control of superior power other than law, and
(e) Position must have some permanency."

The vast majority of natural born sovereign citizens living in the 50 states, however, DO NOT fall in this category. *The rest of us therefore **aren't** liable for the payment of federal income taxes!* Read the section for yourself, because it is very enlightening. There are very good reasons for the above restrictions, including 1:9:4 and 1:2:3 of the u.S. Constitution, which do not allow direct taxes on the sovereign 50 states without apportionment! The 16th Amendment, according to the U.S. supreme Court, didn't change that situation at all because it had no enabling clauses and did not modify or qualify these two parts of the constitution.

7. A Natural Born Sovereign Citizen who never claims or has U.S.** citizenship is equivalent to a nonresident alien for the purposes of the federal income tax. The term for this type of citizen used in the U.S.*** Constitution is capitalized, e.g. "Citizen" and not "citizen".
8. We become a prima facie U.S.** citizen whenever we do any of the following and don't fully clarify what we mean:
   - 8.1. We are born or naturalized in the "United States"**/federal zone, but not in the nonfederal areas within the 50 states (see the 14th Amendment to the U.S. Constitution).
   - 8.2. Emigrate into the United States** and apply for "U.S. citizenship" and don't clarify that we DO NOT want to be a federal citizen, but only a national of United States* the country or United States*** the 50 states.
   - 8.3. Declare on a voter registration that we are a "U.S. citizen" without clarifying what we mean (in fact, we should mean "U.S.* national" and NOT U.S.** citizen).
   - 8.4. Declare on a Driver's license application that we are a "U.S. citizen" without clarifying what we mean (in fact, we should mean "U.S.* national" and NOT U.S.** citizen).
   - 8.5. Declare on our jury summons that we are a "U.S.** citizen" and don't clarify that we instead are a "U.S. national", which means we reside in the country and are state citizens.
   - 8.6. Declare on any kind of tax return that we are a "U.S. citizen" without clarifying what we mean (in fact, we should mean "U.S.* national" and NOT U.S.** citizen). We can also do this by filing the wrong tax form, in this case a 1040 instead of the correct 1040NR form.
9. The U.S. constitution, in Article 1, Section 2, Clause 1 (mentioned in section 3.6.7) says:

> *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; "*

Did you notice that it says "*but all Duties, Imposts and Excises shall be uniform throughout the United States*"? If you look in table 5-6 in section 0, you will see that THE ONLY taxes that are uniform in that table are those for nonresident aliens covered in IRS publication 19 and citizens living abroad covered in Publication 54! The only income tax that is NOT uniform and graduated are taxes for U.S. citizens and residents living in the federal zone (who file 1040 tax forms), which do not fall under the constitutional protections or limitations according to Downes v. Bidwell,, 182, U.S. 244 (1901), covered earlier in section 3.16.6.

10. In the event that definitions of such terms as "U.S.**" or "includes" has you confused about your tax liability or the applicability of the above table, remember that the supreme court said of the rules of statutory construction as found in the case of Hassett v. Welch, 303 U.S. 303:

> *"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..."*

The reason for this is obvious. The Fifth and Sixth Amendments say that we have a right to due process and to know and understand the charges against us. How can we be assured of a fair trial or justice if we can't definitively even know or limit what the law says in such a way that we can completely understand what is expected of us and obey it? Furthermore, the definition of the word "definition" found in Black's Law Dictionary, Sixth Edition, page 423:

> *"A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes."*

If the term "includes" found in 26 U.S.C. §7701(c) is used "expansively" everywhere in the IRC as it is defined in 26 U.S.C. Section 7701(c), NOTHING is defined in the Internal Revenue Code ANYWHERE! For such a case ***the whole code is "Void for Vagueness" as described in section 5.10***!

For all the above reasons, we strongly suggest that you do the following to ensure that no one can ever legally prove that you are a U.S.** Citizen:

- Whenever you sign any kind of tax return, voter registration, or government application for benefits that asks you if you are a "U.S. citizen", add an "A." to the end of "U.S." to emphasize that you are a "natural born State Citizen" and not a "federal citizen". Also, change the word "citizen" to begin with capital letters, so that it appears as "Citizen", which will make you a sovereign citizen of the 50 states. Then put an asterisk next to the term "USA" and make a note at the bottom stating: "Not a 14th amendment citizen or District United States citizen." Most clerks don't pay enough attention to the forms you sign to even notice. *You should make a copy of every type of form or application like this that you sign, so you have proof to use in court that you are a natural born State Citizen.*
- Get a copy of your birth certificate. Examine whether it says anything about you being a U.S. Citizen. If it does, go to the county recorder where you where born and have them alter or amend it to reflect that you are NOT a U.S.** citizen, but rather a sovereign state Citizen of the U.S.A. Or file an affidavit with the recorder and have it recorded stating that you are not a 14th Amendment or U.S.** citizen.
- Follow the guidance in section 8.5.3.13, which talks about changing your citizenship status.

5.3.2 What's Your Proper Federal Income Tax Filing Status?

The proper status from the table above for most Americans who are living in the 50 states is #10, the *Sovereign Natural Born Citizen who is a nonresident alien of the federal zone and the U.S.***. Such persons are also described as "U.S. nationals" as defined in 8 U.S.C. §1408 and 8 U.S.C. §1101(a)(21) through 8 U.S.C.. §1101(a)(22). You should also be filing an IRS Form W-8 and IRS form 6450 instead of an IRS Form W-4 form for your employer withholding. Why? Here are a few of the many reasons why this is absolutely true.

QUESTION FOR DOUBTERS: If the term "United States" as used in 26 U.S.C. Section 7701(a)(9) includes the nonfederal/private areas of the 50 states, then why does our own federal government call foreigners living in these areas "nonresident aliens" and ask them to fill out a form 1040NR? Shouldn't they be called "resident aliens"?

Before we list the reasons to justify the above conclusions, we want to emphasize that most citizens are incorrectly deceived by the IRS into filing under status #7 above, which is a U.S.** citizen who *elects to be treated as a resident of the U.S.***:

1. The Internal Revenue Code, in section 7701, defines "United States" as "The term 'United States' when used in a geographical sense includes only the States and the District of Columbia." The same section defines "State" as "The term 'State' shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title." Note that the word "States" is the plural of the word "State". See sections 3.6.1.15 and 3.6.1.18 for further details on this distinction. Suffice it to say that both "States" and "United States" mean the federal zone and/or the District of Columbia and NOT the 50 states. See section 4.7 for further background on the meaning of the term "federal zone". The U.S. supreme Court ruled as follows on this issue:

> *"There is a canon of legislative construction which teaches Congress that, unless a contrary intent appears [legislation] is meant to apply **only** within the **territorial** jurisdiction of the United States." **U.S. v. Spelar**, 338 U.S. 217 at 222.*

2. IRS Publication 54 for year 2000, entitled *Tax Guide for U.S. Citizens and Aliens Abroad* (which you can download from our website), defines the term "foreign country" as follows on page 12:

> *"A foreign country usually is any territory (including the air space and territorial waters) under the **sovereignty** of a government other than that of the United States.... The term 'foreign country' does not include Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, or U.S. possessions such as American Samoa."*
>
> *[Emphasis added]*

All entities mentioned above as being excluded from being foreign countries are "States" as far as the Internal Revenue Code is concerned and are areas over which the United States** has exclusive jurisdiction and sovereignty. Do you see the 50 states of the United States *excluded* from the above definition of "foreign country"? No! For the purposes of the Internal Revenue Code, the 50 sovereign states are "foreign countries" with respect to the U.S. Government! This conclusion is also consistent with California's definition of "foreign country" found in section 17019 of the California Revenue and Taxation Code:

> *17019. "Foreign country" means any jurisdiction other than one embraced within the United States.*
>
> *[see http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1]*

Note that California's definition of "United States is the same as the federal government's. Yes, the federal government does have limited subject matter jurisdiction within the several states, but they do not have territorial jurisdiction and are NOT sovereign over areas within the several states that are not federal territories or enclaves. For instance, everything the federal government does with air space and territorial waters surrounding or above the states is controlled by elected representatives from *our* state who represent us and who will not be reelected if they don't represent us adequately. Therefore, the U.S. Government can't be sovereign even over the areas they have exclusive jurisdiction if they can't independently control who exercises control of those waters. *Once again, according to the Declaration of Independence, the U.S. Government derives its "just powers from the consent of the governed", so the **people**, and not the **government**, are the sovereigns, and they exercise their sovereignty by voting and serving on jury duty, which in turn indirectly controls everything that the U.S. government does on their behalf.* Ultimately, no government like ours can be wholly sovereign over *anything* because the people are the real sovereigns. The supreme Court agreed with this view in ***Yick Wo v. Hopkins***, 118 U.S. 356, 370 (1885):

> *"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, 370*
>
> *See also **Chisolm v. Georgia**, 2 U.S. 419; **Penhallow v. Doane's Administrators**, 3 U.S. 93; **McCulloch v. Maryland**, 18 U.S. 316, 404, 405.*

There is a BIG difference between jurisdiction and sovereignty. Only the independent states are sovereign over the territory within them (NOTE: We talked about the subject of jurisdiction earlier in section 5.2.2 if you want to go back and review). That is why:

- Direct taxes must be apportioned to the 50 state governments instead of directly on the people inside the states (see Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the Constitution).
- The Congress cannot tax exports from any state (see Article 1, Section 9, Clause 5 of the Constitution).
- The Congress has no authority to join or divide states without concurrence of the State (see Article 4, Section 3, Clause 1).
- Congress only has exclusive legislative jurisdiction (read "sovereignty") in the District of Columbia and other federal territories as per Article 1, Section 8, Clause 17 of the Constitution:

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

3. The legal dictionary defines "sovereign" as:

> *"That which is preeminent among all others. 1 Bl. Comm. *241. For instance, in a monarchy, the king as sovereign has absolute power, the sovereign power. Blackstone, the eighteenth century legal theorist, defined sovereign power to mean 'the making of laws.' 1 Bl. Comm. *49. In ancient England, the king's word was law, in today's democratic governments, the law-making function has been taken over by representative bodies such as Congress."*[57]

Is the U.S. Government "preeminent" within the boundaries of the 50 states?…NO! As a matter of fact, if you look in *Bouvier's Law Dictionary*, Revised Sixth Edition, 1856, which was written by a supreme Court Justice and used by the Supreme Court for many years, you find the following mentioned under the definition of the term "United States of America":

[57] *Law Dictionary*, Barron's, Copyright 1996, ISBN 0-8120-3096-6, p. 479.

> *6. The states, individually, retain all the powers which they possessed at the formation of the constitution, and which have not been given to congress. (q.v.)*

It sure sounds to us like the states are "sovereign" and "preeminent" within their own geographical boundaries. Does the U.S. government have exclusive authority to make laws applying within the boundaries of the 50 states?…NO! You will note that as per 1:8:17 of the U.S. Constitution, the only area within which the United States government has "sovereignty" or exclusive authority to make laws is "the federal zone", which the vast majority of U.S. Citizens don't reside in and which we described in sections 4.7 through 4.8.1 earlier. Therefore, the States are sovereign "foreign countries" with respect to the U.S. Government as far as the filing of income taxes is concerned! We talked further about the relationship of the 50 States of the Union being foreign with respect to the U.S. Government in section 5.2.3 if you want to go back and review again. To repeat what one court said from section 3.6.1.2:

> *"The United States government is a* ***foreign corporation*** *with respect to a state."*
> ***N.Y. re: Merriam****, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287*
>
> *[Emphasis added]*

4. The supreme Court of the United States had the following to say about the sovereignty of the 50 states relative to the Federal government:

> *"…The states are separate sovereigns with respect to the federal government."* ***Heath v. Ala****, 474 U.S. 187*

5. By filing a form 1040 and or a W-2 form ONLY instead of a form 2555 attached to your 1040, you are in effect "electing to be a resident" of the "federal zone" and of the "United States**", which you are perfectly authorized and entitled (but woefully ignorant and misinformed!) to do. This creates a prima facie case in favor of the presumption that you are a U.S.** citizen (a citizen of the federal zone). Remember?: The Income Tax is "voluntary", and the heart of it's voluntary nature begins by you electing to be treated as a "citizen" and a "resident" of the "United States" even though you technically are ***NOT***! IRS Publication 54 tells you how to choose to be a resident of the "United States" on pages 5 through 6 of the Year 2000 version:

> *Nonresident Spouse Treated as a Resident*
>
> *If, at the end of your tax year, you are married and one spouse is a U.S. citizen or a resident alien and the other is a nonresident alien, you can choose to treat the nonresident as a U.S. resident. This includes situations in which one of you is a nonresident alien at the beginning of the tax year, but a resident alien at the end of the year, and the other is a nonresident alien at the end of the year.*
>
> *If you make this choice, the following two rules apply.*
>
> *1) You and your spouse are treated, for income tax purposes, as residents for all tax years that the choice is in effect.*
>
> *2) You must file a joint income tax return for the year you make the choice.*
>
> *This means that neither of you can claim tax treaty benefits as a resident of a foreign country for a tax year for which the choice is in effect. You can file joint or separate returns in years after the year in which you make the choice.*
>
> *[…]*
>
> ***How To Make the Choice***

Attach a statement, signed by both spouses, to your joint return for the first tax year for which the choice applies. It should contain the following:

1) A declaration that one spouse was a nonresident alien and the other spouse a U.S. citizen or resident alien on the last day of your tax year, and that you choose to be treated as U.S. residents for the entire tax year, and 2) The name, address, and social security number (or individual taxpayer identification number) of each spouse. (If one spouse died, include the name and address of the person making the choice for the deceased spouse.)

You generally make this choice when you file your joint return. However, you can also make the choice by filing a joint amended return on Form 1040 or Form 1040A. Be sure to write the word "Amended" across the top of the amended return. If you make the choice with an amended return, you and your spouse must also amend any returns that you may have filed after the year for which you made the choice.

You generally must file the amended joint return within 3 years from the date you filed your original U.S. income tax return or 2 years from the date you paid your income tax for that year, whichever is later.

Suspending the Choice

The choice to be treated as a resident alien does not apply to any later tax year if neither of you is a U.S. citizen or resident alien at any time during the later tax year.

Example. Dick Brown was a resident alien on December 31, 1997, and married to Judy, a nonresident alien. They chose to treat Judy as a resident alien and filed a joint 1997 income tax return. On January 10, 1999, Dick became a nonresident alien. Judy had remained a nonresident alien. Dick and Judy can file joint or separate returns for 1999. Neither Dick nor Judy is a resident alien at any time during 2000 and their choice is suspended for that year. For 2000, both are treated as nonresident aliens. If Dick becomes a resident alien again in 2001, their choice is no longer suspended and both are treated as resident aliens.

Ending the Choice

Once made, the choice to be treated as a resident applies to all later years unless suspended (as explained above) or ended in one of the ways shown in Figure 1–A. If the choice is ended for any of the reasons listed in Figure 1–A, neither spouse can make a choice in any later tax year.

It is very important to note that the above excerpt from IRS Publication 54 indicates that by filing a form 1040 for filing jointly, you are electing to be treated as a resident of the federal United States**/federal zone (not United States of America or the several states, but the United States) for all other tax years! The only way you can revoke that status is to make a Revocation of Election as described under "Ending the Choice" above. We encourage you to obtain this publication and make your Revocation of Election to be treated as a nonresident alien of the United States for tax purposes if you live in any of the 50 states. There are big tax advantages to doing this! We have included forms and procedures to facilitate making your Revocation of Election easier both on our website and in Chapters 8 and 14 of this book. Elections to be treated as a resident or citizen of the federal United States are also discussed in 26 U.S.C. §6013(g).

6. The reason Citizens have been abused by the federal courts and made to believe that they are obligated to pay income taxes they in fact don't owe is because Congress has exclusive authority within the "federal zone" and is not bound by constitutional constraints against direct income taxes within the federal zone as per 4:3:2 of the Constitution:

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

This conclusion is also supported by the findings of the U.S. supreme Court in the case of ***Downes v. Bidwell,*** 182 U.S. 244 (1901), which we talked about in section 3.11.6 earlier:

> ***"CONSTITUTIONAL RESTRICTIONS AND LIMITATIONS [Bill of Rights]* WERE NOT APPLICABLE *to the areas of lands, enclaves, territories, and possessions over which Congress had EXCLUSIVE LEGISLATIVE JURISDICTION"***

Why doesn't the IRS tell you in their 1040 booklet that you are "volunteering" to be a "resident" of the "federal zone" when you submit a 1040 form without a form 2555(?)..because then you would refute it with a letter or statement attached to your 1040 tax return because you *know it isn't true* and that would end their jurisdiction to impose direct taxes on you! Instead, they make the 1040 a generic book that applies to *both* residents and nonresidents and then hide the "contract to become a resident" in Pub. 54, which most Citizens never read because they would never even imagine that their true status is "foreign" in relation to the United States Government taxing jurisdiction or the federal zone! This is scandalous!

7. The IRS and Congress have used the term "foreign country" in IRS Publication 54 above to confuse the issue with most citizens, so they won't use the 1040NR form to claim their rightful status, even though it does indeed apply to them. Instead, if the IRS and Treasury were completely honest, they would have used the term "non-U.S. area" or "areas outside the federal zone/District United States" in their publications being "foreign corporations". We talked about the use of other similar forms like the IRS form 2555 in sections 5.9.6 entitled "Other Clues", section 5.11.4 entitled "The Sixteenth Amendment says 'from whatever source derived'..this means the source doesn't matter!", and especially section 6.5.7 entitled "Cover-Up of 1995: Modified Regulations to Remove Pointers to Form 2555 for IRC Section 1 Liability for Foreign Income Tax". We encourage you to go skip to section 6.5.7 and read it now so you know what we are talking about before you continue further.
8. By signing and submitting a form 1040 instead of submittinig a 1040NR and a Revocation of Election, we are electing to become "residents" of the "United States", and there is in effect a binding contract between us and the United States Government. The terms of the contract are described in IRS Publication 54. Furthermore, the States are prohibited to interfere with this contract because the U.S. Constitution says in Article 1, Section 10, Clause 1:

> *"Section. 10.* ***No State shall*** *enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin as Tender in Payment of Debts;* ***pass any*** *Bill of Attainder, ex post facto Law,* ***Law impairing the Obligation of Contracts****, or grant any Title of Nobility."*
>
> *[Emphasis added]*

The IRS doesn't tell you in their publications that submitting an IRS form 1040 instead of a 1040NR and a W-8 amounts to a "voluntary contract to become a resident of the federal zone", but that is a fact as documented in IRS Publication 54. Now that you know your rights and that you have been deceived into giving them up, what are you going to do about it, other than bend over and look the other way as they screw you? Are you as mad as we were when we first learned about this deception? We sure hope so, and we hope you are mad enough to go out and do something about it immediately

starting with completing your Revocation of Election and filing IRS form 1040NR from now on, that is, if you don't first use the Request for Refund letter we provide in Chapter 15!

To summarize the above section:

> *The heart of the voluntary nature of the income taxes is the very important first step we take by choosing to file an IRS form 1040 instead of form 1040NR, which as we just explained, in effect amounts to signing an invisible contract declaring ourselves as "citizens" and "residents" of the United States**, which we now know is completely incorrect and untrue. When you think about it, you are admitting to a scientific impossibility. No person can simultaneously be resident in two mutually exclusive areas at the same time!*

This single act is the main source of our tax troubles with the U.S. Government, and it was caused by our own ignorance of the law mainly, and facilitated by deception by the IRS in their publications and the legal profession who are in cahoots with them in order to maximize their business. This is the first act of "volunteering" which subsequently eliminates all of our constitutional rights. Until we regain our rightful status as nonresident aliens for the purposes of the tax code, there will be no end of troubles for us in regaining our rightful status under the law, not to mention our Constitutional protections! *The courts know this, but judges also know that they would be committing political and professional suicide to admit it in any or their rulings relating to federal income taxes.* Instead, they will not focus or mention in their rulings the residency of the person being tried on tax issues, and make it "appear" that direct taxes are indeed being enforced upon Citizens of the United States in direct violation of the Constitution. This sometimes makes it "appear" like there is a judicial conspiracy to protect the income tax, when in fact, the judges and attorneys on the case may be honoring the law but not telling people the *whole story*, which is that they elected and "contracted" to be a citizen and resident with the first filing of a form 1040 and so they must pay the consequences of having no constitutional protections and no immunity from income tax. This is a very common practice in the legal profession…abusing people because of their own ignorance, but fully and completely and in fact, honoring and abiding by the law. It's obviously unethical and dishonest, but it's not against the law and it probably never will be, and who knows more about the law than the lawyers? They make the laws!

5.3.3 Summary of State and Federal Income Tax Liability by Residency and Citizenship

In order to better clarify the findings of this section and their impact on both state and federal income taxes, we have taken the liberty to research the tax laws and come up with an example table for use by Citizens in determining the extent of their tax liability and proper forms to file for both federal and state. The example we show below is for California. Your state may be different. The state portion of the table below is derived from the California Revenue and Taxation Code (R&TC) §§17001-18776 and federal income tax found in 26 U.S.C./IRC. A nonfederal area is anything outside of "State" as defined in R&TC section §17018:

> *17018. "State" includes the District of Columbia, and the possessions of the United States.*
> *[which don't include the 50 sovereign states but do include federal enclaves within those states]*

You can read the above for yourself at: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1. The federal portion of the table on the right derives mainly from 40 U.S.C. §255 and sections 5.2.5 and 5.3.1.

Before we begin, we'd like to emphasize that federal and state territorial taxing jurisdictions are mutually exclusive and cannot overlap. The reason is that only ONE government can be sovereign in a territory at any one given time. If a person is a resident of the nonfederal areas of his state, then he must be considered a nonresident alien for the purpose of federal income taxes, unless of course he "volunteers" through his own stupidity to pay taxes by falsely admitting he is either a "U.S. citizen" or a "U.S. person". We should ask ourselves, however: "How can a person simultaneously be a resident of two mutually exclusive territorial jurisdictions and therefore owe tax in both jurisdictions?" The answer is, they can't. Therefore, the correct filing status for most sovereign Citizens of the 50 states is the nonresident alien of the federal taxing

jurisdiction and the resident of the state jurisdiction. In most states, the implication of properly declaring this status is that the person declaring the status is liable for neither federal nor state income taxes!

Table 5-10: Federal and California state income tax liability for natural persons by residency and citizenship.

Location of domicile/physical residence but not workplace	*California Residency Status*	*California Personal Income Tax Liability and correct form(s) to file*	*United States (federal territories) residency status (see 26 U.S.C. §7701 definition of "United States")*	*Federal income tax liability and correct form(s) to file*	*U.S.** citizenship*
Nonfederal areas of California	Resident	Not liable File FTB 540 for refunds of any state taxes erroneously withheld (see FTB form 590, which states residents don't have to withhold)	Nonresident	Not liable on California source income. Liable on federal source income identified in 26 CFR § 1.861-8. File IRS form 1040.	Citizen
				Not liable on California source income. Liable on federal source income identified in 26 CFR § 1.861-8. File IRS form 1040NR.	Alien
Nonfederal areas of other States	Nonresident	Liable for California source income if not taxed in other state. File FTB form 540NR	Nonresident	Not liable on other state source income. Liable on federal source income identified in 26 CFR § 1.861-8. File IRS form 1040.	Citizen
				Not liable on other state source income. Liable for federal source income identified in 26 CFR § 1.861-8. File IRS form 1040NR.	Alien
Federal areas inside California	Nonresident	Liable on California source income and federal source income from within the state. File FTB 540.	Resident	Liable for federal source income identified in 26 CFR § 1.861-8. File IRS form 1040. and include only federal source income but not income from nonfederal parts of California.	Citizen
				Liable for federal source income identified in 26 CFR § 1.861-8. File IRS form 1040NR and put only federal source income.	Alien

Location of domicile/physical residence but not workplace	*California Residency Status*	*California Personal Income Tax Liability and correct form(s) to file*	*United States (federal territories) residency status (see 26 U.S.C. §7701 definition of "United States")*	*Federal income tax liability and correct form(s) to file*	*U.S.** citizenship*
Outside of United States of America (the country and not the federal areas)	Nonresident	Liable on California source income.	Nonresident	Liable for income originating inside federal areas. Not liable for income originating inside nonfederal areas within states. File IRS form 2555 for income from "foreign countries" and attach 1040. Taxable sources identified in 26 CFR § 1.861-8.	Citizen
				Not liable. File IRS form 1040NR for taxes erroneously withheld.	Alien

NOTES:

1. A U.S.** citizen shown above is one who is a federal citizen born or naturalized in the federal zone (a 14th Amendment citizen). This is NOT the same as a person who is a U.S.* national. The Internal Revenue Code only applies to U.S.** citizens and is municipal/special law that does not apply to Sovereign Natural Born Citizens in the 50 states.
2. You can read the California Revenue and Taxation Code (R&TC) for yourself on the web at http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=rtc&codebody=&hits=20
3. Why don't the state and federal income tax publications reflect the above considerations? We can only assume that it is because they want to simplify these publications because they want to maximize revenues from income taxation.

5.3.4 How to Revoke Your Election to be Treated as a U.S. Resident and Become a Nonresident

Revocation of Election is required for those persons who have been filing IRS form 1040's and who want to become nonresident aliens as documented later in section 5.6.10.9.10. The below instructions are derived directly from IRS Publication 54, page 6, for the year 2000 on how to revoke your election to be treated as a resident of the U.S.**. Note that you must also submit an IRS form W-8 along with the revocation of election in order to properly identify yourself as a nonresident alien to the IRS. Revocation of Election is also treated in 26 U.S.C. §6013(g) and the corresponding regulations found in 26 CFR §1.6013-6(b) and 26 CFR §1.6013-6(a)(3):

1. Either spouse can revoke the choice for any tax year.
2. The revocation must be made by the due date for filing the tax return for that tax year.
3. The spouse who revokes must attach a signed statement declaring that the choice is being revoked.
4. The statement revoking the choice must include the following:
   - 4.1. The name, address, and social security number (or taxpayer identification number) of each spouse.
   - 4.2. The name and address of any person who is revoking the choice for a deceased spouse.
   - 4.3. A list of any states, foreign countries, and possessions that have community property laws in which either spouse is domiciled or where real property is located from which either spouse receives income.

5. If the spouse revoking the choice must file a return, attach the statement to the return for the first year the revocation applies.
6. If the spouse revoking the choice does not have to file a return, but does file a return (for example, to obtain a refund), attach the statement to the return.
7. If the spouse revoking the choice does not have to file a return and does not file a claim for refund, send the statement to the Internal Revenue Service Center where the last joint return was filed.

Below is the regulation stating how to revoke the election:

> *26 CFR §1.6013-6 Election to treat nonresident alien individual as resident of the United States.*
>
> *[…]*
>
> *(b) Termination of election--*
>
> *(1) Revocation.*
>
> *(i) An election under this section shall terminate if either spouse revokes the election. An election that is revoked terminates as of the first taxable year for which the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax has not yet occurred.*
>
> *(ii) Revocation of the election is made by filing a statement of revocation in the following manner. If the spouse revoking the election is required to file a return under section 6012, the statement is filed by attaching it to the return for the first taxable year to which the revocation applies. If the spouse revoking the election is not required to file a return under section 6012, but files a claim for refund under section 6511, the statement is filed by attaching it to the claim for refund. If the spouse revoking the election is not required to file a return and does not file a claim for refund, the statement is filed by submitting it to the service center director with whom was filed the most recent joint return of the spouses. The revocation may, if the revoking spouse dies after the close of the first taxable year towhich therevocation applies but before the return, claim for refund, or statement of revocation is filed, be made by the executor, administrator or other person charged with the property of the deceased spouse.*
>
> *(iii) A revocation of the election is effective as of a particular taxable year if it is filed on or before the last day prescribed by section 6072(a) and 6081(a) for filing the return of tax for that taxable year. However, the revocation is not final until that last day.*
>
> *(iv) The statement of revocation must contain a declaration that the election under this section is being revoked. The statement must also contain the name, address, and taxpayer identifying number of each spouse. If the revocation is being made on behalf of a deceased spouse, the statement must contain the name and address of the executor, administrator, or other person revoking the election on behalf of the deceased spouse. The statement must also include a list of the States, foreign countries, and possessions of the United States which have community property laws and in which:*
>
> *(A) Each spouse is domiciled, or*
>
> *(B) real property is located from which either of the spouses receives income.*
>
> *The statement must be signed by the person revoking the election.*
>
> *(2) Death.*

An election under this section shall terminate if either spouse dies. An election that terminates on account of death terminates as of the first taxable year of the surviving spouse following the taxable year in which the death occurred. However, if the surviving spouse is a citizen or resident of the United States who is entitled to the benefits of section 2, the election terminates as of the first taxable year following the last taxable year for which the surviving spouse is entitled to the benefits of section 2. If both spouses die within the same taxable year, the election terminates as of the first day after the close of the taxable year in which the deaths occurred.

(3) Legal separation.

An election under this section terminates if the spouses legally separate under a degree of divorce or of separate maintenance. An election that terminates on account of legal separation terminates as of the close of the taxable year preceding the taxable year in which the separation occurs. The rules in section 1.6013-4(a) are relevant in determining whether two spouses are legally separated.

(4) Inadequate records.

An election under this section may be terminated by the Commissioner if it is determined that either spouse has failed to keep adequate records. An election that is terminated on account of inadequate records terminates as of the close of the taxable year preceding the taxable year for which the Commissioner determines that the election should be terminated. Adequate records are the books, records, and other information reasonably necessary to ascertain the amount of liability for taxes under Chapters 1, 5, and 24 of the code of either spouse for the taxable year. Adequate records also includes the granting of access to the books and records.

(c) Illustrations.

The application of this section is illustrated by the following examples. In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example (1). W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013(g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example (2). H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013(g) electionfor 1980. IfH and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example (3). W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013(g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W or H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States

received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example (4). H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possibility that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

[T.D. 7670, 45 FR 6929, Jan. 31, 1980, as amended by T.D. 7842, 47 FR 49842, Nov. 3, 1982; T.D. 8411, 57 FR 15237-15254, Apr. 27, 1992]

5.3.5 What Are the Advantages and Consequences of Filing as a Nonresident Citizen?

Let us preface this section by saying that although we don't under any circumstances advocate being a federal/U.S.**/14th Amendment citizen, we are including this section for completeness for those of you who insist on being one anyway. We are suggesting that if you WANT to foolishly be one, then you should at least elect to be a nonresident U.S. citizen who files the form 2555 instead of the 1040 form. Below are some reasons why.

Once we complete our Revocation of Election form and become nonresidents for the purposes of the federal income tax, we gain all kinds of advantages that U.S.** (federal zone) residents don't have. This includes the following, derived directly from IRS Publication 54 (from the year 2000):

1. To qualify as a resident of a "foreign country", you must pass the "Physical Presence Test", which means that you must be present in that "country" for no less than 330 full days during a period of 12 consecutive months.
2. You must file a form W-9 with your employer documenting your nonresidency status.
3. You get all the same deductions on your tax return as residents of the United States** ("federal zone").
4. If you choose to exclude foreign earned income or housing amounts, you cannot deduct, exclude, or claim a credit for any item that can be allocated to or charged against the excluded amounts. This includes any expenses, losses, and other normally deductible items that are allocable to the excluded income. You can deduct only those expenses connected with earning includible income.
5. Foreign income taxes (State income taxes, for most U.S. Citizens):
    - 5.1. If you pay income tax to a foreign country or to one of the 50 states, you cannot claim those taxes on your income tax return as U.S. income taxes withheld, but you can make a foreign tax deduction from your taxes paid.
    - 5.2. You cannot take a deduction or credit from the taxes paid on amounts subject to the foreign income or housing exclusion.
    - 5.3. You can deduct foreign property taxes and foreign income taxes using the Schedule A form.
    - 5.4. Foreign income taxes can only be taken as a credit on form 1040, line 43, or as an itemized deduction on Schedule A for amounts above the foreign income exclusion amount.
    - 5.5. You can use IRS form 1116 to take a foreign tax credit and file this form with your 1040. This form can be used to figure the amount of foreign tax paid or accrued that you can claim as a foreign tax credit.
    - 5.6. The rules for breaking up credits between earned income and unearned income can be complicated, and we recommend that you refer to IRS Publication 54 for details.
6. All "foreign income" is classified into three categories:
    - 6.1. Earned income (payments received in exchange for personal services):
        - 6.1.1. Salaries and wages.
        - 6.1.2. Commissions
        - 6.1.3. Bonuses
        - 6.1.4. Professional fees
        - 6.1.5. Tips
    - 6.2. Unearned income
        - 6.2.1. Dividends
        - 6.2.2. Interest
        - 6.2.3. Capital gains
        - 6.2.4. Gambling winnings
        - 6.2.5. Alimony
        - 6.2.6. Social Security benefits.
        - 6.2.7. Pensions
        - 6.2.8. Annuities
    - 6.3. Variable Income
        - 6.3.1. Business profits
        - 6.3.2. Royalties
        - 6.3.3. Rents
7. You can deduct the full cost of housing minus any reimbursements from your employer or the government.

8. After you deduct the housing costs, you can apply an exclusion amount of up to $78,000 (in the year 2001) to your remaining *earned* income (such as wages and payments for personal services).
9. You can fill out an IRS form 673 and give it to your employer, which allows them to legally exclude amounts of your income below the $78,000 (in the year 2001) from your income subject to income tax withholding. This form becomes the equivalent of an IRS form W-4E (exemption from withholding). Here is what IRS Publication 54 (2000 version) says on pages 7 through 9 about this:

> *"U.S. employers generally must withhold U.S. income tax from the pay of U.S. citizens performing services in a foreign country unless the employer is required by law to withhold foreign income tax. Your employer, however, is not required to withhold U.S. income tax from the portion of your wages earned abroad that are equal to the foreign earned income exclusion and the foreign housing exclusion if your employer has good reason to believe that you will qualify for these exclusions."*

Once again, we remind you of the meaning of "U.S." above, which means the "federal zone", and includes only the District of Columbia and the federal territories and possessions. If they meant the United States of America or the 50 States, then they would have used that term and specified it clearly. They obviously didn't, because they have no legal authority or jurisdiction or sovereignty within the States to use that term.

10. Regardless of the fact that you do not owe any federal income tax, you must still file a form 2555 annually if your income exceeds a specified amount as follows (for the year 2000):

Filing Status	**Amount**
Single	$7,200
65 or older	$8,300
Head of household	$9,250
65 or older	$10,350
Qualifying widow(er)	$10,150
65 or older	$11,250
Married filing jointly	$12,950
Not living with spouse at end of year	$2,800
One spouse 65 or older	$13,800
Both spouses 65 or older	$14,650
Married filing separately	$2,800

11. Social Security and Medicare taxes apply even when you work in a foreign country.
12. U.S. payers of earned income excluding wages (other than U.S. government wages) are required to withhold at a flat rate of 30% of all earnings, including dividends and royalties. If you are a U.S. citizen or resident and this tax is withheld in error from payments to you because you have a foreign address, you should notify the payer of the income to stop the withholding. Use form W-9.
13. Foreign earned income may NOT include the following:
    - 13.1. The previously excluded value of meals and lodging furnished for the convenience of your employer.
    - 13.2. Pension or annuity payments including social security benefits.
    - 13.3. U.S. Government payments to its employees.
    - 13.4. Amounts included in your income because of your employer's contributions to a nonexempt employee trust or to a nonqualified annuity contract.
    - 13.5. Recaptured unallowable moving expenses.
    - 13.6. Payments received after the end of the tax year following the tax year in which you performed the services that earned the income.

(Doubters NOTE: Did you notice that the above (item 12) list DIDN'T exclude from "foreign income" income derived from any of the 50 States?)

14. For the purposes of the foreign earned income exclusion and the foreign housing exclusion or deduction, foreign earned income does not include any amounts paid by the United States or any of its agencies to its employees.

Payments to employees of unappropriated fund activities are not foreign earned income. Nonappropriated fund activities include the following employers:

14.1. Armed forces post exchanges.
14.2. Officers' and enlisted personnel clubs
14.3. Post and station theaters.
14.4. Embassy commissaries.

15. Amounts paid by the United States or its agencies to persons who are not their employees may qualify for exclusion or deduction.

5.3.6 Tactics Useful for Employees of the U.S. Government

What's interesting about the above sections relative to nonresident alien status is that U.S. government employees are the ones who get screwed by having to pay taxes on wages/income from U.S.**/federal zone sources, which is precisely the opposite of what you would expect as a reward for their patriotism and loyalty. According to dubious IRS publications, U.S. Government employees are required to pay a flat 30% federal income tax on income sources inside of the federal zone/U.S.**. There are a number of ways that U.S. Government employees can effectively and legally avoid this kind of taxation. Here are some of the ways designed to minimize your tax liability:

1. The same source rules described in 26 U.S.C. Sections 861 and 862 apply to federal income. Therefore, this income is still not subject to federal income tax! Refer to sections 5.6 and 8.1 for further details.
2. Income paid by the United States actually comes from you! You are a tax payer (but not a "taxpayer"). The United States government is just the "independent contractor" for the states that redistributes the income that tax payers from the 50 states pay to it. That means that the U.S. government didn't really pay this money because it never earned it, and receipt of income that it never earned can't be a privilege. Remember, all rights and privileges we enjoy in the United States come from the PEOPLE and NOT the government. The people and NOT the government are the true sovereigns in our system of government. The Declaration of Independence says so! Therefore, you could say that the income was directly paid by the tax payers, and indirectly by the U.S. government. That is why the federal courts say they have authority to assess "direct" income taxes, in many cases.
3. Remember the definition of "employee" from 26 U.S.C. section 7700 (the Internal Revenue Code)? It says:

> *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.*

(See section 3.6.1.3 for further details on the definition of "employee".) For the purposes of income tax withholding liability, 26 CFR § 31.3401(c)-1 defines the term "employee" as elected or appointed political officials of the United States, which most federal employees do ***not*** fall under. You must therefore be an elected or appointed official of the U.S. holding public office or an officer of a corporation to be a U.S. Government " employee". Most government "employees" are neither of these, and therefore at least for the purposes of the income tax, they may include their income as "foreign". Also, if we look at the definition of "employee" found in 5 U.S.C. section 2105, you must be appointed to civil service by the President, a member of Congress, a member of a uniformed service, or another "employee" who has been. This conclusion agrees with the points made in section 8.1 entitled: "Considerations Involving Government Employment Income". You might want to read that section so you know what we are talking about here.

4. One common approach that many government employees use to escape income tax liability is to become independent contractors for the government. As we described in item 10 above, such contractors are not considered employees and therefore their income can be described as "foreign income" which is subject to the "foreign exclusion" amount and housing deductions.

With all of the interesting knowledge gleaned from above, who needs the politicians to give us a tax cut? We can give ourselves a BIG tax cut just by changing our status to "nonresident alien", and IRS Publication 519 tells us exactly how to

do it! If we file as nonresident aliens, then for most of us, our income federal income tax would go to zero! We can also quit jobs with the U.S. Government and become independent contractors to cut our federal taxes. However, we have to make sure that we don't live in the federal zone, or all these benefits go out the window and we become U.S.** citizens.

5.4 The Truth About The "Voluntary" Aspect of Income Taxes

> *31 U.S.C. §321(d)*
>
> *(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.*
>
> *(2): "For the purposes of the **Federal income, estate, and gift taxes**, property accepted under paragraph (1) **shall be considered as a gift** or bequest to or for the use of the United States."*

Now lets look at the surprising definition of the word "**gift**" in Black's Law Dictionary, Sixth Edition, page 688:

> ***Gift**: A **voluntary** transfer of property to another made gratuitously and without consideration. Bradley v. Bradley, Tex.Civ.App., 540 S.W.2d 504, 511. Essential requisites of "gift" are capacity of donor, intention of donor to make gift, completed delivery to or for donee, and acceptance of gift by donee.*
>
> ***In tax law, a payment is a gift if** it is made without conditions, from detached and disinterested generosity, out of affection, respect, charity or like impulses, and **not from the constraining force of any moral or legal duty or from the incentive of anticipated benefits of an economic nature**.*

And finally, lets look up the word "**voluntary**" from Black's Law Dictionary, Sixth Edition, page 1575:

> *"Unconstrained by interference; unimpelled by another's influence; spontaneous; acting of oneself. Coker v. State, 199 Ga. 20, 33 S.E.2d 171, 174. Done by design or intention. **Proceeding from the free and unrestrained will of the person. Produced in or by an act of choice. Resulting from free choice, without compulsion or solicitation.** The word, especially in statutes, often implies knowledge of essential facts. Without valuable consideration; gratuitous, as a voluntary conveyance. Also, having a merely nominal consideration; as, a voluntary deed."*

The above considerations might explain why the IRS created 31 U.S.C. Section 321(d)2, which says that income taxes, estate taxes, and gift taxes are "gifts" to the U.S. government. Therefore, because "gifts" and "bequests" are *never* mandatory and must always be a product of choice and not compulsion, the income tax is VOLUNTARY! There can be no other rational conclusion you can reach after reading this section. You can read this amazing law for yourself at:

http://www4.law.cornell.edu/uscode/31/321.html

Getting back to our friends at the Department of Plunder, the IRS depends not only upon its highly publicized actions but upon its perceived power in order to instill fear into honest Americans and, according to the agency itself, to: "Maintain a sense of presence."

Quoting from a book called ***IRS In Action*** by Santo Presti, we read:

> *"Fear is the key element for the IRS in achieving its mission. Without fear, the IRS would have a difficult time maintaining our so-called system of voluntary compliance...".*

And what exactly does "voluntary compliance" really mean?

In 1953, Mr. Dwight E. Avis, head of the Alcohol and Tobacco Division of the Bureau of Internal Revenue, made the following remarkable statement to a subcommittee of the Committee on Ways and Means in the House of Representatives:

> *"Let me point this out now: Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as day and night."*

In 1971, the following quote was found in the IRS instruction booklet for Form 1040:

> *"Each year American taxpayers voluntarily file their tax returns and make a special effort to pay the taxes they owe."*

In 1974, Donald C. Alexander, Commissioner of Internal Revenue, published the following statement in the March 29 issue of The Federal Register:

> *"The mission of the Service is to encourage and achieve the highest possible degree of <u>voluntary compliance</u> with the tax laws and regulations..."*
>
> *[emphasis added]*

One year later, in 1975, his successor, Mortimer Caplin authored the following statement in the Internal Revenue Audit Manual:

> *"Our system is based on individual self-assessment and <u>voluntary compliance</u>."*

In 1980, yet another IRS commissioner, Jerome Kurtz (their turnover is high) issues a similar statement in their Internal Revenue Annual Report:

> *"The IRS's primary task is to collect taxes under a voluntary compliance system."*

Even the Supreme Court of the United States has held that the system of federal income taxation is voluntary, starting in Flora v. United States, :362 U.S. 145:

> *"...the government can collect the tax from a district court suitor by exercising it's power of distraint..but we cannot believe that compelling resort to this extraordinary procedure is either wise or in accord with congressional intent. Our tax system is based upon voluntary assessment and payment, not upon distraint.*
>
> *If the government is forced to use these remedies (distraint) on a large scale, it will affect adversely the taxpayers willingness to perform under our VOLUNTARY assessment system.""*

The dictionary defines "distraint" to mean the act or action of distraining, that is, seizing property to distress or taking by force. One way to determine for whom the income tax is ***<u>mandatory</u>*** is to look at the section of the code that talks about the types of levy and distraint that are authorized and how they may be instituted. The only section of the entire Internal Revenue Code that talks about levy and distraint is 26 U.S.C. Section. 6331, and it plainly states that only the Secretary of the Treasury (not the IRS) may institute levy and distraint and that he has the authority to do so ONLY on *<u>officers or elected officials of the United States</u>* within the federal zone. The Secretary of the Treasury may NOT therefore effect levy or distraint outside of the federal zone or in nonfederal areas in the 50 states on other than its own officers. Here is the law:

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. ***Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official****. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

The IRS' definition of "employee" is also consistent with the above conclusions of the limitations on liability for paying the federal income tax:

26 CFR § 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."*

---

26 U.S.C. Sec. 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.*

---

26 CFR 31.3401(c)-1 ***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****.*

IRS Publication 21 is widely distributed to high schools. It acknowledges that compliance with a Law that requires the filing of returns is voluntary. Get to those young minds early, and it's easier to wash their brains later on in life.

At the same time, Publication 21 suggests that the filing of a return is mandatory, as follows:

"Two aspects of the Federal income tax system--voluntary compliance with the Law and self-assessment of tax--make it important for you to understand your rights and responsibilities as a taxpayer. Voluntary compliance places on the taxpayer the responsibility for filing an income tax return. You must decide whether the Law requires you to file a return. If it does, you must file your return by the date it is due."

Perhaps one of the most famous quotes on this question of the voluntary nature of income taxes came from Roger M. Olsen, Assistant Attorney General, Tax Division, Department of Justice, Washington, D.C., on Saturday, May 9, 1987, when Olsen told an assemblage of tax lawyers:

> *"We encourage voluntary compliance by scaring the heck out of you!"*

Meaning, "Assess yourself and volunteer to comply or we'll seize your property and you may go to jail" (exercise "distraint", that is, which the Supreme Court said in ***Flora v. United States*** (362 U.S. 145) was NOT to be used as part of our tax system!)

What is the difference between the voluntary filing of a tax return and the voluntary paying of income tax on taxable income? A world of difference. Millions of people don't file income tax returns. For instance, below is a clip from a GAO report on nonfilers published in 1996 (see http://www.devvy.com/abra_19991021.html):

> *Internal Revenue Service: Results of Nonfiler Strategy and Opportunities to Improve Future Efforts (Chapter Report, 05/13/96, GAO/GGD-96-72).*
>
> *GAO reviewed the results of the Internal Revenue Service's (IRS) nonfiler strategy and opportunities to improve any similar future efforts.*
>
> *Skip down to the section on Introduction and you will find this rather amazing statement:*
>
> *"In 1993, IRS received about 114 million individual income tax returns. Almost all of those returns were for tax year 1992. For that same tax year, IRS identified 59.6 million potential* individual *nonfilers. Of the* 59.6 million, IRS took no enforcement action on 54.1 million (91 percent), primarily because IRS subsequently determined that the individual *or business* had no legal requirement to file."

So as we can see, LOTS of people don't file returns and no enforcement action is taken against them. Why, as we see above, would the IRS not want to institute enforcement action? Because:

TAXES ON INCOME EARNED BY U.S. NATIONALS FROM SOURCES WITHIN AND WITHOUT THE UNITED STATES ARE VOLUNTARY, UNCONSTITUTIONAL TO MAKE MANDATORY, AND NOT SUBJECT TO "DISTRAINT" OR FORCE, AS RULED BY THE SUPREME COURT IN FLORA V. UNITED STATES (362 U.S. 145)!

5.4.1 Direct Income Taxes are Slavery

Slavery, we are reminded incessantly these days, was a terrible thing. In today's politically correct society, some blacks are demanding reparations for slavery because their remote ancestors were slaves. Slavery is routinely used to bash the South, although the slave trade began in the North, and slavery was once practiced in every state in the Union. Today's historians assure us that the War for Southern Independence was fought primarily if not exclusively over slavery, and that by winning that war, the North put an end to the peculiar institution once and for all.

Whoa! Time out! Shouldn't we back up and ask: what is slavery? It has been a while since those ranting on the subject have offered us a working definition of it. They will all claim that we know good and well what it is; why play games with the word? But given the adage that those who can control language can control policy, it surely can't hurt to revisit the definition of slavery. There are good reasons to suspect the motives of those who won't allow their basic terms to be defined or scrutinized.

Here is a definition, one that will make sense of the instincts telling us that slavery is indeed an abomination:

Slavery is non-ownership of one's Person and Labor.

It is involuntary servitude. A slave must work under a whip, real or figurative, wielded by other persons, his owners, with no say in how (or even if) his labors are compensated. His is a one-way contract he cannot opt out of. A slave is tied to his master (and to the land where he labors). He cannot simply quit if he doesn't like it. Moreover, a slave can be bought and sold like any other commodity.

In this case slavery is at odds with libertarian social ethics, in which all human beings have a natural right to ownership of Person and Labor. According to libertarian social ethics, contracts should be voluntary and not coerced. This is sufficient for us to oppose slavery with all our might. However, notice that this clear definition of slavery is a double-edged sword. There is no reference to race in the above definition. That whites enslaved blacks early in our history is an historical accident; there is nothing inherently racial about slavery. Many peoples have been enslaved in the past, including whites. The South, too, has no intrinsic connection with slavery, given how we already noted that it was practiced in the North as well. No slaves were brought into the Confederacy during its brief, five-year existence, and it is very likely that the practice would have died out in a generation or two had the Confederacy won the war.

Finally, it is clear that when most people talk about slavery, they are referring to *chattel* slavery, the overt practice of buying, selling and owning people like farm animals or beasts of burden. Are there other forms of slavery besides chattel slavery?

Before answering, let's review our definition above and contrast slavery with sovereignty, in the sense of sovereignty over one's life. Slavery, we said, is nonownership of Person and Labor. In that case, *sovereignty is ownership of Person and Labor.* The basic contrast, then, is between slavery and sovereignty, and the issue is ownership. And there are two basic things one can own: one's Person (one's life), and one's Labor (the fruits of one's labors, including personal wealth resulting from productive labors).

Let us quantify the situation. A plantation slave owned neither himself nor the fruits of his labors. That is, he owned 0% of Person and 0% of Labor. In an ideal libertarian order, ownership of Person and Labor would be just the opposite: 100% of both. In this case, we have a method allowing us to describe other forms of slavery by ascribing different percentages of ownership to Person and Labor. For example, we might say that a prison inmate owns 5% of Person and 50% of Labor. Inmates are highly confined in person yet they are allowed to own wealth both inside the prison and outside. Some, moreover, are allowed to work at jobs for which they are paid. When slavery was abolished, ownership of Person and Labor was transferred to the slave, and he became mostly free. So let us define the following categories in terms of individual percentage ownership:

Category	***Characteristics***
Chattel Slavery	0% ownership of Person and Labor
Partial Slavery	some % ownership of Person and Labor
Perfect Liberty	100% ownership of Person and Labor

With this in mind, here is our question for our readers:

How much ownership do you have in your person and your labor?

Are you really free? Or are you a partial slave? We are not, of course, talking about arrangements that cede a portion of ownership of Person and Labor to others through voluntary contract.

We submit that forcible taxation on your personal income makes you a partial slave. For if you are legally bound to hand a certain percentage of your income (the fruits of your labors) over to federal, state and local governments, then from the legal standpoint you only have "some % ownership" of your person and labor. The pivotal point is whether or not ownership is ceded through voluntary contract. Have you any recollection of any deals you signed with the IRS promising them payment of part of your income? If not, then if 30% of your income is paid in income taxes, then you have only 70% ownership of Labor. You are a slave from January through April – a very conservative estimate at best, today!

If one wants to stand on the U.S. Constitution as one's foundation, then the 13th Amendment to the U.S. Constitution can be used as an ironclad argument against a forcible direct tax on the labor of a human being. The 13th Amendment says:

> *"Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have the power to enforce this article by appropriate legislation."*

The 13th Amendment makes it very clear that we cannot legally or Constitutionally be forced into involuntary servitude. It doesn't make any distinction between whether the slavery is physical or financial, but says that ***any*** kind of involuntary servitude is prohibited.

As such, we maintain that a human being has an inalienable right to own 100 % of Person and 100% of Labor, including control over how the fruits of his actions are dispensed. A human being has an inalienable right to control the compensation for his labor while in the act of any service in the marketplace – e.g., digging ditches, flipping burgers, word-processing documents for a company, programming computers, preparing court cases, performing surgery, preaching sermons, or writing novels.

A forcible direct tax on the labor of a human being is in violation of this right as stated in the 13th Amendment. If we work 40 hours a week, and another entity forcibly conscripts 25 % of our compensation, then we argue that we have been forced into involuntary servitude – slavery – for 10 of those 40 hours, and we were free for the other 30. If we could freely choose to work just the 30 hours and decline to work the 10 hours, then our wills would not be violated and the 13th Amendment would be honored.

However, Congress and the IRS claim that their Internal Revenue Code (IRC) lay direct claim to those ten hours (or some stated percentage) without our consent.

In other words, in a free and just society, a society in which there is no slavery of any form:

- Human beings are not forced to work for free, in whole or in part.
- Human beings are not slaves to anything or anyone.
- Anyone who attempts to force us to work for free, without compensation, has violated our rights under the 13th Amendment.

This, of course, is not the state of affairs in the United States of America at the turn of the millennium, in which:

- We labor involuntarily for at least four months out of every year for the government.
- We are, therefore, slaves for that period of time.
- The government, having forced us to work for free, without compensation, has violated the 13th Amendment.

Of course, what follows from all this discussion is that there is an issue about slavery. But it is ***not*** the issue politically correct historians and activists are raising. As for reparations, we suspect many of us might be willing to let bygones be bygones if we never had to pay out another dime to the IRS. We often read about how great the economy is supposedly doing. Just imagine how it would flourish if human beings owned 100% of Person and Labor, and could voluntarily invest the capital we currently pay to the government in our businesses, our homes, our schools, and our communities!

For those of you who believe that the 16th Amendment repealed, replaced, modified, appended, amended or superceded the 13th Amendment, you are mistaken. For an Amendment to be changed, in any way, there must be an Amendment that emphatically declares this action. There is absolutely nothing in the Constitution that alters the efficacy of the 13th Amendment in even the slightest way. The 16th merely allowed the government to enter the "National Social Benefits" business where it finances the system with the mandatory contributions of voluntary participants. While all Americans certainly understand the concept of mandatory contributions, they fail to understand the concept of voluntary participation, largely due to a very effective marketing campaign on the part of our central government for several generations now since the Great Depression. The 16th gave the government the power to legally enter a contractual relationship with its citizens wherein the citizen ***voluntarily*** contributes a portion of his labor in exchange for social benefits. In order for both

Amendments to peacefully coexist, the contractual relationships in the system created by the 16th cannot be forced upon the citizens. For to do so would be to contradict the 13th completely.

Two final questions, and a few final thoughts. Can we really take seriously the carpings of politically correct historians about an arrangement (chattel slavery) that hasn't existed for 140 years when they completely ignore the structurally similar arrangements (tax slavery) that have existed right under their noses during most of the years since. And does a governmental system which systematically violates its own founding documents, and then oversees the imprisoning of those who refuse to recognize the legitimacy of the violations, really have a claim on the loyalty of those who would be loyal to the ideals represented in those founding documents?

Eventually, we have to make a decision. How long are we going to continue to put up with the present hypocritical arrangements? In the Declaration of Independence is found these remarks:

> *"... [a]nd accordingly all Experience hath shewn, that Mankind are more disposed to suffer, while Evils are sufferable, than to right themselves by abolishing the Forms to which they are accustomed."*

We are accustomed to the income tax. Most people take it for granted, and don't look at fundamental issues. Yet some have indeed opted out of the tax system. It is necessary, at present, to become self-employed and hire oneself out based on a negotiated contract in which you determine your hourly rate and then bill for your time. Then you send your client an invoice, they write a check directly to you in response, and you take the check and deposit it in your bank account; you may wish to open a bank account with a name like John Smith Enterprises DBA (DBA stands for 'Doing Business As'). If the bank asks for a tax-ID number, you may give your social security number. This is perfectly legal since you are not a corporation nor are you required to be. Nor does the use of a government issued number contractually obligate you to participate in their system.

We should specify here that we are discussing taxes on income resulting from personal labor, to be carefully distinguished from taxes for the sale of material items, or excise taxes. These are an entirely separate matter.

By advocating opting out of the tax slavery system, we are not advocating anything illegal here; that is the most surprising thing of all. The Treasury Department nailed Al Capone not because of failure to pay taxes on his personal labor but for his failure to pay the excise tax on the sale of alcoholic beverages. So a plan to be self-employed that includes profit from the sale of material goods should include a plan to pay all the excise taxes; you risk a prison sentence if you don't. But the 13th Amendment directly prohibits anything or anyone from conscripting your person or the fruits of your physical or cognitive labors; to do so is make a slave of you. You may, of course, voluntarily participate in the SSA-W2 system by free choice. In this case you are required to submit to the rules as outlined in the Internal Revenue Code (IRC). And this means that you will contribute a significant fraction of your labor to pay for the group benefits of the system in which you are voluntarily participating.

Your relationship with the system technically begins with the assignment of a Social Security Number (Personal Tax ID Number). This government-issued number, however, does not contractually obligate you to anything. The government cannot conscript its citizens simply by assigning a number to them. Assigning the number is perfectly fine. But conscripting them in the process is a serious no-no. Some people that feel strongly about the last chapters of the book of Revelation might view this as pure – evil.

The critical point in the relationship begins when a citizen accepts a job with an IRS registered corporation. Accepting the government owned SSA-W2 job marries you to the system. The payroll department has the employee fill out a W4. This W4 officially notifies the employee that the job in question is officially part of the SSA-W2 system and that all job-income is subject first to the rules and regulations of the IRC and then secondly to the employee. When you sign that W4 you are at that point very, very married to the system.

So why not just decline to sign the W4?

You can decline to sign a W4 but this does not accomplish much nor does it unmarry you from the system. Your payroll office will merely use the IRC defaults already present in the payroll software and all deductions will be based on those parameters.

Okay, you might say, fine, I'll sign a W4 but I'll direct my payroll department to withhold zero. (You can do this for federal withholding but not for social security tax.) This still does not unmarry you from the system. Your payroll department still reports the gross income and deductions for your SSA-W2 job to the IRS each and every quarter. And at the end of the year you will probably end up being asked to write a large check to the IRS for the group contributions you declined to pay during the year. With skill and the resources in this book, you may escape this assumed but nonexistent liability.

You then might say, Okay, then I'll just direct my payroll office to decline to report income to the IRS.

Reply: they cannot legally decline to report your SSA-W2 income because of their contractual obligations under the IRC that were agreed to when they established their official IRS registered corporation. The corporation can get into deep trouble by violating their contract.

Okay, you reply in turn, I'll just get the corporation to create a non-SSA-W2 job for me.

Response this time: the corporation cannot do this either; their contract under the IRC requires every single employee-job in that corporation to be an SSA-W2 job. This is similar to labor union practices of insisting that all jobs in a plant be union jobs.

You retort: isn't this a government monopoly on every corporate job in America???

The short answer is YES.

So how can I legally decline to work for free?

The answer is to decline to be an 'employee' of an official IRS registered corporation.

How is that possible?

The answer is simple. You become an independent contractor. The Supreme Court upholds the sovereignty of the individual and has declared that your "...power to contract is unlimited." Corporations hire the labors of non-employees each and every day.

If there is an infestation of cockroaches near the employee break-room, the corporation doesn't create an SSA-W2 employee exterminator job. They hire a contract exterminator to kill the bugs. When the bug-man arrives they don't hand him a W4 and ask him to declare his allowances, they lead him straight to the big-fat-ugly roaches and implore him to vanquish the vermin immediately. When the bug-man finishes the job he hands them an invoice for his services. And the company sends him a check to pay the invoice. And nowhere on that check will you find a federal, state, county or city withholding deduction or a social security deduction or a medical or dental deduction or a garnishment or an "I'll-be-needing-an-accountant-to-figure-all-this-out" deduction or a "Tuesday-Save-The-Turnips-Tax" deduction. On the contrary, the bug-man receives full remuneration for his service. This simple arrangement is completely legal and the IRC has zero contractual claim to any part of this check (assuming the bug-man has made no contract under the IRC). And anyone or anything that attempts to forcibly conscript any part of that check is violating the bug-man's rights under the 13th Amendment.

Supreme Court Ruling on Individual Sovereignty

> *"There is a clear distinction in this particular case 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 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."* Hale v. Henkel, *201 U.S. 43 at 47 (1905).*

What does the bug-man do with his check?

The short answer is ... he keeps it ... all of it.

What about filing a tax return?

The bug-man declines to file a return since he has nothing to report that is under the jurisdiction of the IRC. Since he does not work in a government owned SSA-W2 job he is out of the system and under no contractual obligation to make contributions. The corporation that wrote him a check for his service legally reports it as an internal business expense. He is legally classified as a non-participant.

If you are in the SSA-W2 system:

The purpose of an individual year-end tax-return is to settle the exact amount of contractually required contributions to the SSA-W2 system as determined by the IRC. Filing is purely voluntary. You can decline to file but doing so does not release you from your contractual obligations under the IRC. In the absence of a tax-return, the IRS falsely believes that the IRC permits them to file a tax-return on your behalf and they are allowed to file a return that maximally favors them. Most people don't challenge their illegal attempt to make a return if you don't provide them with one. And this they will do if it creates a receivable – accounting lingo for – "you owe them money." They will decline to file a return if it would create a payable – accounting lingo for "they owe you money." If the IRS files a return and creates a receivable against you they will send you a notice declaring their claim. If you decline to pay, the IRC permits the IRS to file a tax-lien against you if you are an elected or appointed political officer of the U.S. government. This of course will be seen on your credit report. And the end result is your credit is damaged. The IRS computers will see to it that the lien remains on your credit report until the lien is paid. You can't beat a computer.

What if I file a return but cheat like crazy?

This is a very bad idea. The Treasury Department nailed Leona Helmsley not because she failed to pay taxes on her personal labor but because she filed a fraudulent tax return. Filing a dishonest tax return puts you at risk. The IRS is very astute at defending itself. Basically the IRS is responsible for enforcing the IRC rules. If you are in the SSA-W2 system you have to live by the IRC. If you decide to stay in the system, we recommend securing the services of a highly qualified CPA or tax attorney that can assist you in filing the most advantageous return possible without committing fraud or risking an audit.

In the end, the law does allow you to opt-out because you can't be forced to work for free. If you do opt-out there are at least 2 potential inconveniences you need to understand:

1. **Difficulty with conventional loans**. You will have a far more difficult time getting loans from conventional banks, because so often these depend on verifying your income with signed tax returns you no longer have. You can hire an accountant to compose a certified financial statement that some loan institutions may accept as valid proof of income.

2. **No unemployment benefits**. This benefit is part of the SSA-W2 system and since you're not in the system you can't use the benefits. If you have no contracts you only have yourself to complain to, you can't complain to the government because you can't get anyone to do business with you.

Moreover, some who have opted out have moved all their physical assets into a trust. This measure makes it almost impossible for the IRS to touch the assets. The IRS, after all, cannot simply decide to go after a person's wealth. They have to obey IRC rules as well. If there is no income over which they have jurisdiction then they can legally do nothing.

It is worth noting, finally, that the government is in the "National Social Benefits" business. The government entered this business with the ratification of the 16th Amendment and has achieved a near perfect monopoly in this market (a violation of anti-trust laws). If you don't believe this, try finding a non-SSA-W2 job with a U.S. corporation. As such, it is in the interest of any business that has a monopoly to get the customers to believe that there is no alternative to the present business relationship. The government is not about to provide any of its customers (you and I) with any information suggesting otherwise. In obtaining such information, we are clearly on our own; no government agency will assist you in opting out of the income tax system or the social security system, with the possible exception of the U.S. Supreme Court, should the right case one day come before them.

So one's best weapon is still the Declaration of Independence, the U.S. Constitution, the 13th Amendment, and information. Whatever the inconveniences, the reward is personal sovereignty – otherwise known as freedom.

5.4.2 26 U.S.C. Section 1: Tax "Imposed"…Oh Really?

26 U.S.C. §1 is the section that the IRS says imposes the income tax. Here is an excerpt from that section:

> *United States Code*
> *TITLE 26 - INTERNAL REVENUE CODE*
> *Subtitle A - Income Taxes*
> *CHAPTER 1 - NORMAL TAXES AND SURTAXES*
> *Subchapter A - Determination of Tax Liability*
> *PART I - TAX ON INDIVIDUALS*
>
> *Sec. 1. Tax* ***imposed***
>
> *(a) Married individuals filing joint returns and surviving spouses*
> *There is hereby* ***imposed*** *on the taxable income of –*

The question is:

> *Does the word "imposed" mean "***liable"***?*

Incidentally, did you notice we used "means" instead of "include" above…because the government just loves to abuse this word to illegally expand their jurisdiction! Here is the definition of the word "impose" from Black's Law Dictionary, Sixth Edition, page 755:

> ***Impose****: To levy or exact as ay authority; to lay as a burden, tax, duty, or charge.*

Nothing in there about liability! And the definition of the word "levy" out of that same legal dictionary on page 907 says:

> ***Levy****, v.: To assess; raise; execute; exact; tax; collect; gather; take up; seize. Thus, to levy (assess, exact, raise, or collect) a tax; to levy (raise or set up) a nuisance; to levy (acknowledge) a fine; to levy (inaugurate) war; to levy an execution, i.e., to levy or collect a sum of money on an execution.*

Can you collect a tax that no one is ***liable*** for? You certainly can, if you can find enough ignorant Americans and fool or coerce them into believing that they are "taxpayers"! Do you see the words "liable" or "liability" used anywhere in the above two definitions or anywhere in 26 U.S.C. §1? We don't…and if you aren't ***liable***, then you don't have to pay! ***When you search electronically through the entire 9,500 pages of the Internal Revenue Code like we did, you will indeed find the word "liability" used for every kind of tax OTHER than personal income taxes, but not for any of the taxes on individuals found in Subtitles A, or C***! When a person is made liable, the code explicitly says "shall be liable", "shall be paid" and "shall keep records", etc, but *nowhere* is this stated for personal income taxes in Subtitles A or C. Here are just a few examples where persons are explicitly made "liable" for payment of a tax that was also "imposed" elsewhere in the code:

> *26 U.S.C. §4374: Liability for tax: "…**shall be paid**…"*
>
> ---
>
> *26 U.S.C. §4401(c) Persons liable for tax: "…wagers shall be liable for and **shall pay**"*
>
> ---
>
> *26 U.S.C. §4403 Record requirements: "Each person **liable for tax** under this subchapter shall keep a daily record…"*
>
> ---
>
> *26 U.S.C. §5005 Persons **liable for tax**:*
> *"(a) The distiller or importer of distilled spirits shall be liable for the taxes imposed…"*
> *"(c) Proprietors of distilled spirits plants: "(1) Bonded storage. Every person operating bonded premises of a distilled spirits plant **shall be liable** for internal revenue tax…"*
> *"(e)(1)" Withdrawals without payment of tax: "…**shall be liable**"*
> *""(e)(2) Relief from liability: "All persons liable for the tax…"*
>
> ---
>
> *26 U.S.C. §5043. Collection of taxes on wines*
> *"(a) Persons liable for payment*
> *The taxes on wine provided for in this subpart **shall be paid**--…"*
>
> ---
>
> *26 U.S.C. §5054. Determination and collection of tax on beer*
> *"(a) Time of determination*
> *(1) Beer produced in the United States; certain imported beer….**shall be paid** by the brewer thereof in accordance with section 5061."*
>
> ---
>
> *26 U.S.C. §5703. **Liability for tax** and method of payment.*
> *(a) **Liability for tax***
> *(1) Original liability….**shall be liable for** …*
> *(2) Transfer of liability…**shall become liable**…"*

That's right: The personal income taxes mentioned in the following subtitles NOWHERE use the word "liable" or "liability", so you can't be *required* to pay, which is why they also don't say "liable" or "shall pay" anywhere in the code for these taxes on natural persons anywhere in:

Subtitle A: Income Taxes
Subtitle C: Employment Taxes

What the Treasury did instead in order to create a *bogus liability* was to write an illegal regulation in 26 CFR § 1.1-1(b) and use the word "liable" in the regulation. Remember that the Secretary of the Treasury is authorized to write regulations that interpret and implement the Internal Revenue Code under 26 U.S.C. §7805, but the Secretary has no delegated authority to expand or enlarge or modify the original language or jurisdiction of the Code section he is implementing, as indicated below:

> *"To the extent that* 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]*

Here is the illegal portion of the implementing regulation for 26 U.S.C. §1 which is found in 26 CFR § 1.1-1(b):

> *(b) Citizens or residents of the United States liable to tax.*
>
> *In general,* ***all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States.*** *Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.*

Did you get that? 26 U.S.C. §1 *didn't* use the word "liable" but the implementing regulation did, which is clearly illegal and violates the above concept described in the ***Spreckles v. C.I.R.*** case. Therefore, 26 CFR § 1.1-1(b) *is null and void and fraudulent on its face* insofar as its imposition of an otherwise nonexistent liability for the payment of Subtitle A income taxes. If you were to investigate this matter further, I'd be willing to bet money that the Secretary of Treasury who approved this regulations was a lame duck and knew he was on the way out of office and probably his last official act was to approve this regulations. That was the kind of scam that got the Sixteenth Amendment passed by the lame duck Secretary of State Philander Knox, who perjured himself by saying that the Sixteenth Amendment had been passed.

One of our readers responded to this section with the following statement:

> *Chris,*
>
> *"The current 26 U.S.C. §1 comes from Section 11 of the 1939, without any significant change occurring (according to Congress). The old Section 11 said that the tax shall be "levied, collected, and PAID" upon the net income of individuals. While I think it was stupid of them to reword it without stating the liability there, the underlying law (the Statutes at Large) shows it, so 1.1-1 is correct. Congress also in Sections 6012 and 6151 show that one who receives "gross income" must file a return, and the one required to file the return "shall pay such tax." It's not in Subtitle A, but there's no requirement that it has to be, since the section says it applies "when a return of tax is required UNDER THIS TITLE" (not subtitle). Why do you not consider 6151 to be a liability clause?"*
>
> *Larken Rose*
> http://www.taxableincome.net/

Here was part of our response to that claim:

> *Larken,*
>
> *1. I looked up the implementing regulations applying 6151 to Subtitle A income taxes in Section 1. 26 CFR § 1.6151 clearly shows that taxpayers should pay the amount of tax*

shown on the return, but it doesn't say they are required to pay any tax that they didn't assess against themself VOLUNTARILY. The only case they have to pay taxes they didn't voluntarily assess is under section 6014, which allows the TAXPAYER to ELECT to allow the IRS to compute his tax with his permission.

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

That's why you can't be made liable to pay a tax that you didn't assess against yourself ***voluntarily****. If you refuse to file a return or refuse to claim any gross income by filling in zeros on your return, then 26 USC §6201 clearly shows that the IRS* ***may not*** *involuntarily assess you a liability! If you look at the Parallel Table of Authorities, ALL of the taxes to which 6151 applies relate ONLY to Alcohol, Tobacco, and Firearms under Title 27. Look for yourself!:*

http://www4.law.cornell.edu/cgi-bin/usc-cfr.cgi/26/6151

See section 5.4.5 of the Great IRS Hoax for further details.

2. 26 U.S.C. §6151 and 26 U.S.C. §6012 are NOT liability statutes. 6151 says you shall pay any tax shown on a return (that you completed VOLUNTARILY) and 6012 says you must "make a return" for any subtitle A taxable gross income you have. Since the term "make a return" doesn't say "file a return" or even who to file it WITH, then one can satisfy this requirement by filling out a tax return (called "making a return") and filing it in one's file cabinet! One place that the word "file" is used is in the title of 26 U.S.C. §7203, and 26 U.S.C. §7806 says the title has no force or effect. The only other place "file" is used is in 6151, which only applies to Title 27 taxes. The code or regulations for Subtitle A income taxes therefore has to say WHO to file the return WITH and mention "liable to file with the Secretary of the Treasury", which it doesn't. It does for Alcohol, Tobacco, and Firearms taxes, but not for Subtitle A income taxes. See section 3.9.11 of my Great IRS Hoax book for further details on this. The code COULDN'T impose a requirement to file a return because it would violate the Fifth Amendment so they played games with words, as usual. I know this is picking nits, but that is what the code itself does and especially what Mr. Roginsky of the IRS did during his friendly interview with you!

Misunderstandings on your part about the issues discussed above is why you attract busy IRS bees to your honeypot. The IRS picks their battles carefully, and like the lion, hits the weakest parts of the herd, who are usually hobbling at the end of the procession with less than a full deck of cards. I'm not trying to criticize you, however, and simply want to help you by keeping you out of trouble.

Your friend,

Chris

To give you just one example in real life that illustrates the lack of liability for Income Taxes, if employment taxes are indeed enforced "taxes" rather than "donations", then why:

1. Do you have to complete a W-4 giving the government *permission* to take your money under Subtitle C, Employment taxes? If it is a tax, they don't *need* your permission, do they!
2. Are Employment taxes classified as gifts by assigning them to Tax Class 1?

Something is fishy here, isn't it? And why do they call it a "tax" if you aren't "liable"? Shouldn't our dishonest government call it a "donation"? You be the judge!

The other question we should be asking ourselves is: "*Who* is the income *tax imposed* on?". 26 U.S.C. §1 uses the term "Individuals", but what does that mean? The answer is found in 26 CFR § 1.1-1(a):

> *Sec. 1.1-1 Income tax **on individuals.***
>
> *(a) General rule.*
>
> *(1) Section 1 of **the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual**.*

The tax is "imposed" on "**citizens or residents of the United States**" and nonresident aliens described in 871(b) and 877(b), but we know that "United States" as used here means the federal zone or the *federal* United States, so the tax doesn't apply to us. That is the only logical conclusion we can reach based on the constitutional limitations on direct taxation found in Article 1, Section 9 (1:9:4), Clause 4 and 1:2:3 of the U.S. Constitution!

> *"The right to tax and regulate the national citizenship is an inherent right under the rule of the Law of Nations, which is part of the law of the United States, as described in Article 1, Section 8, Clause 17." The Luisitania, 251 F.715, 732.*
>
> *"This jurisdiction extends to citizens of the United States, wherever resident, for the exercise of the privileges and immunities and protections of [federal] citizenship." Cook v. Tait, 265 U.S. 37,44 S.Ct 447, 11 Virginia Law Review, 607 (1924) ."*

So once again, if we aren't "U.S.** citizens" or nonresident aliens with income associated with a "trade or business" in the federal United States, then we aren't liable for income taxes! If we aren't "U.S.** citizens" but we were born in United States* the country on nonfederal land, then we are *nonresident aliens*. As we will point out later, most of us are born as nonresident aliens and "U.S. nationals" (see 8 U.S.C. §1408) because we are born outside the federal zone but inside the 50 states. The legal profession has done their best to hide this fact over the years by redefining some key terms or removing important definitions entirely from the legal dictionary. We talk about this later, in section 6.7.1.

5.4.3 IRS has NO Legal Authority to Assess You With an Income Tax Liability

As per 26 U.S.C. Section 6201(a)(1), only the person paying the tax may may make an assessment of tax liability on himself. The Secretary of the Treasury may *not* make assessments of the liability of individuals under Subtitles A through C personal income taxes. It is quite common for IRS agents to "estimate" the liability of a Citizen, especially as an intimidation mechanism during an exam or audit. However, unless the taxpayer *voluntarily* signs the return forms presented by the agent authorizing the assessment or settlement, the assessment is *not valid*. *Without a valid assessment, collection activity cannot be commenced*!

Furthermore, under 26 CFR § 301.6211-1, either making no return or a return showing no tax amounts to a zero return. Any amount imputed by the IRS to be owed above the amount on the return is referred to as a "deficiency" under that regulation. However, 26 CFR § 301.6211-1 is based on the repealed 1939 Internal Revenue Code that is no longer in effect! If you look at the bottom of this regulation, it cites NO statutory authority and therefore is NOT a legislative regulation and cannot be enforced by the courts! To confirm this conclusion, this regulation also does NOT appear in the Parallel Table of Authorities cross-referencing regulations to statutes. See section 5.4.1 for a look at the Parallel Table of Authorities. See also

http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

26 U.S.C. §6020 says the following about returns prepared by the Secretary of the Treasury:

Subtitle F - Procedure and Administration
CHAPTER 61 - INFORMATION AND RETURNS
Subchapter A - Returns and Records
PART II - TAX RETURNS OR STATEMENTS
Subpart D - Miscellaneous Provisions §6020 Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent *to disclose all information necessary for the preparation thereof, then, and* ***in that case, the Secretary may prepare such return,*** *which, being-signed by such person, may be received by the Secretary as the return of such person.*

So you can see that once again, ***the IRS and the Secretary of Treasury rely on the tax payer's self-assessment in order to establish a tax liability***. Agents *do not* have delegated authority to prepare a tax form on behalf of an American without the signature of the person. This is clearly shown on their Pocket Commission (see IRM section [1.16.4] 3.1 through [1.16.4] 3.2). Their pocket commission *must* indicate that they have Enforcement commission (the last letter of the serial number of the pocket commission must be "E" in order to complete a 23C Assessment form, for instance, and none of the revenue officers associated with Subtitles A through C have such commissions. Revenue officer must also have a Delegation Order showing their authority specifically to sign the IRS form 23C and/or the 1040. No revenue officers who administer Subtitles A through C have such delegation orders and are acting outside their lawful authority to sign such forms. You should demand a copy of their Delegation Order and their Pocket Commission if any agent tries to exceed their authority by signing a return for you or a 23C Assessment form.

If you argue with the revenue officer over their authority to assess you, they like to point to regulation 26 CFR § 301.6201-1, which is an explanatory but not implementing regulation for 26 U.S.C. §6201. They will try to say that this authorizes them to make an assessment, but this is simply false! This regulation simply reiterates what was found in 26 U.S.C. §6201 and exists for informational purposes only:

[Code of Federal Regulations]
[Title 26, Volume 17]
[Revised as of April 1, 2001]
From the U.S. Government Printing Office via GPO Access
*[**CITE**: **26CFR301.6201**-1]*

Sec. 301.6201-1 Assessment authority.

(a) IN GENERAL.

The district director is authorized and required to make all inquiries necessary to the determination and assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law. The district director is further authorized and required, and the director of the regional service center is authorized, to make the determinations and the assessments of such taxes. However, certain inquiries and determinations are, by direction of the Commissioner, made by other officials, such as assistant regional commissioners. The term "taxes" includes interest, additional amounts, additions to the taxes, and assessable penalties. The authority of the district director and the director of the regional service center to make assessments includes the following:

(1) TAXES SHOWN ON RETURN. The district director or the director of the regional service center shall assess all taxes determined by the taxpayer or by the district director or the director of the regional service center and disclosed on a

return or list.

(2) UNPAID TAXES PAYABLE BY STAMP.

(i) If without the use of the proper stamp:

(a) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof, or

(b) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs; The district director, upon such information as he can obtain, must estimate the amount of the tax which has not been paid and the district director or the director of the regional service center must make assessment therefor upon the person the district director determines to be liable for the tax. However, the district director or the director of the regional service center may not assess any tax which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner provided by law or regulations.

(ii) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is not paid upon presentment, then the district director or the director of the regional service center shall assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the check or money order was received by the district director.

...

It's very important to realize that the above regulation is NOT an implementing regulation and does not apply the ability to assess a tax liability to income taxes in Subtitles A through C of the Internal Revenue Code! It is simply an explanatory regulation. If the IRS had authority to assess Subtitle A personal income taxes under 26 U.S.C. §6201, then there would be an implementing regulation number 26 CFR § 1.6201, ***which there is not***! A statute cannot be applied to a particular tax until the Secretary of the Treasury writes an implementing regulation, and 26 CFR § 301.6201 does not implement or enforce Subtitle A income taxes.

The section above clearly shows that *the only thing the district director can do is make assessments of taxes collected by stamp under 26 CFR § 301.6201-1(a)(2) but NOT personal income taxes coming under Subtitles A through C*. Notice that this regulation does NOT give the revenue officer authority to estimate tax nor sign a return or list on behalf of an American, or it would have said so. Subtitles A through C personal income taxes must instead appear on a tax return, and the 1040, 2555, or 1040NR are the only things that qualify as legitimate returns upon which to base an assessment of Subtitle A through C personal income taxes. 26CFR 301.6201-1(a)(1) says the taxes assessed by the district director MUST be "disclosed on a return or list". Even the title says that: "TAXES SHOWN ON RETURN". If the agent has no Delegation Order or delegated authority to prepare such a return, then he is acting outside his lawful delegated authority and can be prosecuted for violation of 26 U.S.C. Section 7214!

Furthermore, there are no regulations implementing 26 U.S.C. §6201 against the Section 1 income tax. Therefore these statutes cannot be applied against Subtitle A income taxes. If there were implementing regulations for personal income taxes, then the regulation number would have to be 26 CFR § 1.6201, and there is no such regulation:

"...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 regulates (not the Code) may incur civil or criminal penalties, it is the actual regulation issued by the Secretary of the Treasury and not the broad authorizing language of the statute, which is to be tested against the standards of the 4th Amendment."* Calif. Bankers Assoc. v. Shultz*, 416 U.S. 25, 44, 39 L.Ed. 2d 812, 94 S.Ct 1494.*

With these kinds of shenanigans going on, we need to ask ourselves:

> *"If the income tax **isn't voluntary**, then why don't they just assess us without our permission and send us a bill like they do with property taxes? **Why do they need us to snitch on ourselves and send in a'confession' called a tax return if it's a mandatory 'tax'?**"*

The answer, once again, is that it is and always has been a ***voluntary tax***, which is why the IRS has no authority to assess you and why only you can assess yourself! If all you ever put on your tax return is a zero, then you have no liability and no one other than a judge can determine otherwise. The IRS will try to scare you by sending a bogus Notice and Demand for tax, but they can't do this either, because the regulation they rely on, 26 CFR § 301.6303-1, to send it is *not the law* so they are acting outside their authority in doing so. This is confirmed by the absence of a reference at the bottom of the regulation pointing to an authorizing statute, which means the regulation is NOT a legislative regulation. Don't let the IRS scare you with a trick Notice and Demand for tax following an examination or with a bogus assessment, because they do not have the authority to issue either.

5.4.4 How a person can "volunteer" to become liable for paying income tax?

Even if a person is not liable for paying any federal taxes on their income, they can nevertheless "volunteer" to make themselves liable to pay tax. This topic is also discussed in section 3.6.1.17, where we talk about "Taxpayer." For instance, if you have a large income but none of it is taxable as "gross income", you can make yourself liable anyway simply by misreporting nontaxable income as taxable on a 1040 form, signing it, and sending it in! That's called a donation. Do you think the IRS will argue with or correct people who do this? Quite the contrary, they will prosecute such people if they can get more money out of them! This was clearly stated in the case of ***Lyddon & Company v. U.S.***, 158 F.Supp. 951:

> *"When one files a tax return showing taxes due, he has, presumably, assessed himself and is content to become liable for the tax, and to pay it either when it is due according to statute, or when he can get the money together."*

There are other equally important choices we can make that will identify us as "volunteers who want to pay federal income taxes" as far as the federal courts are concerned. Here are just a few:

1. Claiming we are a U.S.** citizen, which we should never do on any piece of paper we sign. Instead, if we have to claim we are a U.S. citizen in order to vote, for instance, then we should *always* clarify exactly what we mean, which is that we are a "U.S.* national", but not a U.S.** citizen.
2. Submitting a 1040, which tells the IRS we are electing to be a federal citizen and a resident of the District of Columbia and the federal zone. The correct form to submit is the W-8 and the 1040NR, which makes us a nonresident alien with respect to federal income taxes.
3. Signing up for the Social Security program or receiving a Social Security Number. We need to change the status of our SSN by submitting a W-8 to the IRS and asking them to register us as nonresident aliens, or else we by default become U.S.** citizens who have no constitutional rights.
4. When we use the postal system and put zip codes on our mail and use state abbreviations. We should instead use the full state name and put all postal zip codes in parentheses to emphasize that we are not subjecting ourselves to federal jurisdiction.

Below is how one of our readers succinctly described how we volunteer to become liable to pay federal income taxes:

> *"There seems to be two camps. One says the tax is illegal and doesn't apply to them...ie (Joe Banister) 16th amendment wasn't properly ratified, taxes aren't apportioned ...etc. All these and related arguments miss an important and critical point. Why is it that a 'patriot' finds himself in court..makes a valid argument...and then loses the case? Why did Robert Clarkson spend five years in jail..convicted of interfering with IRS operations.*

> *The judge would not allow any first amendment arguments. Everyone thought the judge was a communist pinko. The judge was right when he said no free speech arguments would be allowed because the constitution did not apply. Everyone missed the real issue including Robert who did five years. I reject the court's decision... but THE JUDGE WAS RIGHT."*

> *"The citizenship issue is a **huge** issue or should I say nexus. I ran into a fella a while back that had the case cite where a judge said we become citizens of the corporate U.S. when we pay the first dollar into social security as an adult; and our use of the current postal system. The judge declined to elaborate but (here I'm being very optimistic) was trying to tell the litigant what he must do to beat the infidels back. I have ex-patriated / re-patriated, filed my UCC documents, and am making use of common law trusts. Appears that everything is working and soon I will find out in an up-coming court case.... The ex-patriating issue and KNOWING how the uniform commercial code and how we get into contracts with the corporate US seems to be the minimum we must know and defend. For nearly thirty years I have heard it all from sincere but wide-eyed 'patriots' who were eager to convince me how the income tax was illegal...blah, blah, blah. It never occurred to them that they are not SUBJECT TO the tax (even if it was legal). Several judges I see now and then are now avoiding me. I made the 'mistake' of asking them about jurisdiction and strawman and Uniform Commercial Code issues. Squirm and sweat describes their responses. Maybe we haven't found the "Magic-Bullet" yet but it seems that we are very close."*

Therefore, all of our problems begin when we claim to be federal citizens or "U.S. citizens", which is what makes us slaves of the state in the pursuit of government benefits, whether they be the right to vote, social security, driver's licenses, etc. In a way, one could say that the effort by the government to fool Natural Born Sovereign Citizens into claiming they are also federal citizens constitutes a "conspiracy against rights", which violates 18 U.S.C. §241 and is a federal crime, because once we become federal citizens, we lose all our rights and no one including the states may interfere (as revealed in the 14th Amendment) because we in effect become a party to an "adhesion contract" that binds us to "U.S. Inc.", or "U.S. the Corporation". At that point, every visit we make to a federal court is litigated in equity rather than the Constitution, and the federal courts become administrative courts to enforce our "citizenship contract", which amounts to indentured servanthood.

5.4.5 IRS Has NO Legal Authority to Assess Penalties on Subtitles A through C Income Taxes on Natural Persons

Many people are amazed when they learn that the Internal Revenue Service has NO delegated authority to assess penalties for nonpayment or noncompliance with Subtitle A Income Taxes. The basis for this conclusion is that *there is no implementing CFR or Federal Register regulation* providing IRS with the authority to assess any kind of financial penalties, including late payment fees, frivolous return fees, etc. *The definition of "person" found in Subtitle F also confirms that penalties may not be applied against natural persons*. In fact, all such penalties are ***only*** applicable to Title 27 taxes relating to Alcohol, Tobacco, and Firearms and corporations under Subtitles D and E!

What the IRS clearly knows but simply will NEVER tell you is that *they have NO legal authority to assess penalties for Subtitles A through C income taxes* found in the Internal Revenue Code against the vast majority of Americans, who are natural persons. For example, below is the section right out of their own regulations found at the government's own website at http://frwebgate.access.gpo.gov/cgi-bin/getcfr.cgi?TITLE=26&PART=301&SECTION=6671-1&YEAR=2000&TYPE=TEXT that describes those persons who can be assess penalties related to I.R.C. Subtitle A income taxes:

> *[Code of Federal Regulations]*
> *[Title 26, Volume 17, Parts 300 to 499]*
> *[Revised as of April **1**, 2000]*
> *From the U.S. Government Printing Office via GPO Access*

> *[**CITE**: **26CFR301.6671-1**]*
> *[Page 402]*
> *TITLE 26--INTERNAL REVENUE*
> *Additions to the Tax and Additional Amounts--Table of Contents*
> *Sec. 301.**6671-1** Rules for application of assessable penalties.*
>
> *...*
>
> *(b) Person defined. For purposes of subchapter B of chapter 68,* ***the term ``person'' 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.***

Even more interesting, is that the above not only doesn't apply to most Americans: It also doesn't apply to most corporations or partnerships either! Why?…because the corporations or partnerships mentioned above must be registered in the *District of Columbia* (the federal zone). State-(only)chartered corporations or partnerships aren't liable for IRS penalties because they aren't within the territorial jurisdiction of the IRS either. Furthermore, the only type of employee who can be penalized is an employee of a U.S. corporation registered in the District of Columbia and who is involved in reporting and complying with taxes for the corporation, and NOT for himself individually!

Now when the IRS hears this argument, they often try to say that the above definition of "person" uses the word "includes", which is an expansive rather than limiting term. Here is what they will quote, from 26 U.S.C. section 7701(c) in making this statement:

> "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.***"

The IRS will say that the phrase in 26 CFR § 301.6671-1 "includes an officer or employee of a corporation" does *not* *exclude* other uses of the term, like *EVERYONE else or ALL Americans*, because of the definition of the word "includes" found in section 3.11.1.7 earlier. But we know from statements made in Congressional Research Service Report 97-59A appearing in section 10.1 that Subtitles A through C income taxes are excise taxes, and that the "persons" indicated in the above regulations are the only ones in receipt of privileges form the U.S. government. Expanding the operation of penalties beyond these legal fictions called "persons" makes the income tax operate effectively as a direct tax rather than an indirect tax, which is clearly unconstitutional.

We answer this issue on the abuse of the word "includes" and "including" by the IRS in section 10.1.20. This is a very common and unscrupulous tactic designed to confuse Americans and illegally expand the jurisdiction of the taxing power of the federal government for Subtitle A income taxes beyond its clear limits found in the definition of "United States" in 26 U.S.C. Section 7701(a)(9) and "State" found in 26 U.S.C. Section 7701(a)(10).

Now lets talk about the requirement for implementing regulations. Pursuant to **44 U.S.C.A. §§1504-1507**, before a citizen of the several states of the United States of America can be bound by, or adversely effected by a law or regulation, having ***general applicability*** to such Citizens, it must be published in the ***Federal Register***. Such laws and regulations are then categorized pursuant to their applicable Title in the Code of Federal Regulations (CFR). 26 U.S.C. §7805(a) states:

> *"…the Secretary shall prescribe all needful rules and regulations for the enforcement of this title."*

The Internal Revenue Code is not self-executing. Without an implementing regulation, applicable to a particular type of tax, a statute has no force of law, and imposes no duties or penalties. According to evidence available to us in the form of a letter provided directly by the Internal Revenue Service in response to a Freedom of Information Act request:

> ***"There are no published regulations under Internal Revenue Code Sections 6702 and 6703, which authorize the imposition and collection of penalties for filing frivolous returns."***

Furthermore, the Parallel Table Authorities for 26 CFR reveals that the Bureau of Alcohol, Tobacco, and Firearms is the ***only*** authority authorized to use distraint or assess penalties for nonpayment of income taxes under Title 27 ONLY. The following is taken from the Parallel Table of Authorities in the back of the Title 26 Code of Federal Regulations [CFR]. It is a list of the ONLY 26 CFR Part 301 Regulations that derive their Authority for implementation from Title 26 USCS or 26 IRC [Income Taxes]. Note the conspicuous absence of any penalty, interest, levy or seizure for the Title 26 Voluntary Income Tax. Again, it is inconceivable that the Congress would legislate penalties for the individual income tax, since the supreme Court and the IRS have both substantiated that such a Tax is voluntary and NOT based upon distraint. It would be absurd to impose penalties for non-compliance, when such an option is what made the tax voluntary to begin with!

Table 1: Parallel Table of Authorities 26 CFR to 26 USCS

CFR to USCS	
IRS Regulations	***Internal Revenue Code***
26 Part 301	26 §6011
26 Part 301	31 §3720A
26 Part 301	26 §6245
26 Part 301	26 §7805
26 Part 301	26 §6233
26 Part 301	26 §6326
26 Part 301	26 §6404
26 Part 301	26 §§6324A-6324B
26 Part 301	26 §6241
26 Part 301	26 §§6111-6112
26 Part 301	26 §6223
26 Part 301	26 §6227
26 Part 301	26 §6230-6231
26 Part 301	26 §6033
26 Part 301	26 §6036
26 Part 301	26 §6050M
26 Part 301	26 §6059
26 Part 301	26 §2032A
26 Part 301	26 §7624
26 Part 301	26 §3401
26 Part 301	26 §§6103-6104
26 Part 301	26 §1441
26 Part 301	26 §7216
26 Part 301	26 §6621
26 Part 301	26 §367
26 Part 301	26 §6867
26 Part 301	26 §6689

You can look at the Parallel Table of Authorities yourself at:

http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

The following table, repeated from section 3.14.2, also provides conclusive evidence that there are NO implementing regulations associated with all of Title 26 that relate to income taxes under Subtitle A of the Internal Revenue Code. This table provides a list of the enforcing regulations for Title 26, mostly under Subtitle F, which is Procedures and Administration:

Table 5-11: Enforcement Regulations

Title 26 U.S.C.	*Description*	*Location of Enforcement Regulations*
§6020	Returns prepared for or executed by Secretary	27 CFR Parts 53, 70
§6201	Assessment authority	27 CFR Part 70
§6203	Method of assessment	27 CFR 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 CFR Parts 24, 25, 53,70, 250, 270, 275
§6303	Notice and demand for tax	27 CFR Parts 53, 70
§6321	Lien for taxes	27 CFR Part 70
§6331	Levy and Distraint	27 CFR Part 70
§6332	Surrender of property subject to levy	27 CFR Part 70
§6420	Gasoline used on farms	No Regulations
§6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 CFR Parts 70, 170, 194, 296
§6651	Failure to file tax return or to pay tax	27 CFR Parts 24, 25, 70, 194
§6671	Rules for application of assessable penalties	27 CFR Part 70
§6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 CFR Part 70
§6701	Penalties for adding and abetting understatement of tax liability	27 CFR 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 CFR Part 70
§7210	Failure to obey summons	No Regulations
§7212	Attempts to interfere with administration of Internal Revenue Laws	27 CFR Parts 170, 270, 275, 290, 295, 296
§7342	Penalty for refusal to permit entry, or examination	27 CFR 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 CFR Part 70
§7402	Jurisdiction of district courts	No Regulations
§7403	Action to enforce lien or to suspend property to payment of tax	27 CFR 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 CFR Part 70
§7602	Examination of books and witnesses	27 CFR Parts 70, 170, 296
§7603	Service of summons	27 CFR Part 70
§7604	Enforcement of summons	27 CFR Part 70
§7605	Time and place of examination	27 CFR Part 70
§7608	Authority of Internal Revenue enforcement officers	27 CFR Parts 70, 170, 296

Most noteworthy of the above is that ALL of the provisions identified in Subtitle F are associated with Title 27, Alcohol, Tobacco, and Firearms, and NOT Subtitle A Income taxes! Why? Because these types of taxes are indirect excise taxes on privileges. If you don't want the penalty, then don't choose the privileged manufacture of alcohol, tobacco, or firearms.

In addition, the following court ruling clearly expresses the lack of IRS authority to assess penalties absent implementing regulations:

> *"…the Act's **civil and criminal penalties** attach only upon the **violation of a regulation** promulgated by the Secretary; **if the Secretary were to do nothing, the Act itself would impose no penalties on anyone…only those who violate the regulations (not the Code) may incur civil or criminal penalties,** it is the **actual regulation issued by the Secretary of the Treasury and not the broad authorizing language of the statue**, which is to be tested against the standards of the 4th Amendment." **Calif. Bankers Assoc. v. Shultz**, 416 U.S. 25, 44, 39 Led2d 812, 94 S.Ct. 1494*

The Internal Revenue manual, which is reflective of the ruling case law on this subject states that you have ***no delegated authority to issue a civil penalty or to collect penalties without a judgment signed by a magistrate***:

> ***IRM 546 §19(b)(2) "the civil penalty for non-compliance may be imposed only by filing a suit in the name of the United States, naming the taxpayer as a defendant and securing a judgment."***

The supreme Court agrees with this conclusion in the following case:

> *"Our system of taxation is based upon **voluntary assessment and payment**, **not upon distraint.**" Flora v. U.S. 362 U.S. 145, 1959.*
>
> *[Emphasis added]*

In case you don't understand, "distraint" is defined as follows and is the equivalent of "force" or "coercion" or "compulsion" in the collection of debts and legal liabilities:

> *"…the act or process of DISTRAINT whereby a person (the DISTRAINOR), without prior court approval, seizes the **personal property** of another located upon the distrainor's land in satisfaction of a claim, as a pledge for performance of a duty, or in reparation of an injury. Where goods are seized in satisfaction of a claim, the distrainor can hold the goods until the claim is paid and, failing payment, may sell them in satisfaction." [Barron's Law Dictionary, Steven H. Gifis, 1996, p. 150, ISBN 0-8120-3096-6]*

Therefore, IRS assessments of penalties and demands for money, without the authority of law, their lawless actions to penalize Americans that have not been legally defended or explained or justified based on their delegated authority, constitutes *extortion under the color of law, mail fraud and conspiracy against the rights of a Citizen, for which they can be help personally liable should legal action become necessary*.

5.4.6 No Implementing Regulations Authorizing Collection of Subtitles A through C Income Taxes

Collections is one of three parts of the enforcement process. Enforcement of a tax involves:

1. Assessment (26 U.S.C. §6201, which has no implementing regulation under the tax imposed in section 1 of the I.R.C.).
2. Penalties for noncompliance (26 U.S.C. §§6671-6715, which also has no implementin regulations under the tax imposed in section 1 of the I.R.C.)
3. Collections (26 U.S.C. §6330 and 6331, which has no implementing regulations under the tax imposed in Section 1 of the Internal Revenue Code).

We already covered the first two aspects of enforcement in sections 5.4.3 and 5.4.5 of this book respectively. We noted above that *collections* of Subtitle A income taxes under 26 U.S.C. §6330 and 6331 also has *no implementing regulations* like the other two parts of the enforcement process. This is no accident, but a direct result of the fact that personal income taxes are and always have been voluntary, which means that they are donations instead of taxes! For a statute to be realized as an enforceable law, then it must have an implementing regulation that applies it to a specific tax. If you look in the CFR, you will not find either of the following two regulations which would apply the ability to collect to the income tax: 26 CFR

§ 1.6331 or 26 CFR § 1.6330. The only implementing regulations for 6330 and 6331 are found in 26 CFR Part 70, which is for Alcohol, Tobacco, and Firearms, because these taxes are *enforced taxes* and the BATF is an enforcement agency. The IRS is not an enforcement agency like the BATF, but instead is an administrative agency who cannot use distraint against Citizens to collect personal income taxes because it is a voluntary tax:

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

What the IRS likes to do is point to 26 CFR § 301.6330 and 26 CFR § 301.6331 and say these are the *implementing regulations* that authorize them impose collections for Subtitle A. This claim is pure fraud! These regulations are only *explanatory or amplifying* regulations, but they are not *implementing regulations* that apply the statute to a specific tax. The "301" in the regulation number simply refers to Part 301 of the Regulations under 26 CFR, instead of the section of the Subtitles A through C tax that is implemented! For instance, if there was a regulation implementing collection of Employment taxes under Subtitle C, then the regulation number would be 26 CFR § 31.6330 or 26 CFR § 31.6331, but there is no such regulation!

> *"...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. 25, 44, 39 L.Ed. 2d 812, 94 S.Ct 1494.*

5.4.7 No Implementing Regulations for "Tax Evasion" or "Willful Failure To File" Under 26 U.S.C. §§7201 or 7203!

Just like other aspects of enforcement covered earlier for assessment, collections, and penalties, the Secretary of the Treasury also has not written any implementing regulations for the criminal acts of or Tax Evasion under 26 U.S.C. §7201 or Willful Failure to File under 26 U.S.C. §7203. If there were an implementing regulation for these that applied it to Subtitle A Income Taxes imposed in Section 1, which is in Part 1 of the I.R.C., then the regulation numbers would be 26 CFR § 1.7201 (Tax Evasion) and 26 CFR § 1.7203 (Willful Failure to File) respectively, but these regulations do not exist! Without implementing regulations, these code sections do not apply to the personal income tax and therefore can't be lawfully enforced!

Why do some people get convicted under these statutes anyway? The main reasons are:

1. Ignorant judges who don't know the law.
2. Ignorant Citizens and their legal counsel who don't know about implementing regulations and therefore don't use this knowledge as a defense.
3. Judicial conspiracy to protect the income tax. This conspiracy exploits the ignorance of the law to by jurors, Citizens, and the legal profession to uphold and expand the operation of the income tax, as we thoroughly documented later in section 6.6 of this book.

The government loves to make examples out of people whose ignorance of the law allowed them to be conviced of tax evasion and willful failure to file. That is how they keep the sheeple scared and "voluntering" to be slaves. But when people do learn the law and use it to defend themselves, the government makes sure that such cases, if they are litigated, go unpublished and never get entered into the court record or case databases, which amounts to fraud, extortion, and a conflict of interest on the part of judges.

5.4.8 The Secretary of the Treasury Has No Delegated Authority to Collect Income Taxes outside the federal zone!

The following are Treasury Directive Orders, which are part of the LAW concerning the Treasury Department

Treasury Department Order No. 150-42, dated July 27, 1956, appearing in at 21 Fed. Reg. 5852, specifies the following:

> *The Commissioner shall, to the extent of the authority vested in him, provide for the administration of United States internal revenue laws in* **the Panama Canal Zone, Puerto Rico and the Virgin Islands.**

On February 27, 1986 (51 Fed. Reg. 9571), Treasury Department Order No. 150-01 specified the following:

> *The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws* **in the U.S. Territories and insular possessions and other authorized areas of the world.**

The point is that the above order does not authorize collection of taxes within the borders of the state because Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the U.S. Constitution forbid collection of direct taxes by the federal government from natural persons.

Authors note: It should be stated clearly and unambiguously that ***it is UNCONSTITUTIONAL*** for any part of the federal government to *collect a tax from Americans,* ***except for congress!*** The founding fathers **insisted it be that way, so that if congress tried to impose and collect a tax the people didn't want, they could *vote the rascals out!!*** So how is it that the current fraud is allowed to continue, where the Internal Revenue Laws are imposed on American Citizens living in the 50 states with income from within the 50 states. Show me the Delegation of Authority Order (DAO) that authorizes this!

On September 14, 1787, a motion was proposed in Congress to "strike out" the power of Congress to impose and collect taxes and, instead, delegate that **authority** to the **Secretary of the Treasury**. The Secretary of the Treasury is not elected but appointed by the President in the Executive Branch of the Government. This motion was denied because it was a direct violation of the Constitutional "Separation of Power" protections for the American Citizens. Therefore, the Secretary of the Treasury has never formally been **delegated** the Constitutional Authority to collect any type of tax from the Citizens of the 50 states, even though today that is his responsibility! Absent a valid delegation of authority order, the Secretary of the Treasury, under whom the IRS Commissioner serves, is acting entirely outside the bounds of his Constitutional authority in collecting taxes as he does!

Remember, there are two classes of citizens in the United States, (1) Sovereign Citizens of the 50 states, under the Constitution and (2) "citizens subject to its jurisdiction" who were born in territories over which the United States is Sovereign (i.e. District of Columbia, Guam, Puerto Rico, etc.). These citizens are **not** legislated for under constitutional guidelines. ***The only taxing authority the Secretary of the Treasury could have would be over these subject citizens who are under the exclusive territorial jurisdiction of the United States.*** The Internal Revenue Code is "situs based" Territorial federal legislation. It is only applicable to citizens of any of the 50 States who are elected or appointed employees of the Federal government. Otherwise the tax is as foreign as the Japanese income tax. That's why the Treasury Secretary can NEVER have any delegated authority derived from the constitution to enforce income taxes on sovereign American Citizens residing in nonfederal areas of the 50 states.

Now let's look at what the U.S. Supreme Court said about the authority of the Secretary of the Treasury to administratively enforce the income tax outside the federal zone. We quote from the Supreme Court case of Brushaber v. Union Pacific Railroad Company No. 140, 240 U.S. 1, 36 S.Ct. 236, 60 L.Ed. 493 (1915). This case was argued October 14 and 15, 1915 and decided January 24, 1916:

> *"We have not referred to a contention that because certain administrative powers to enforce the act were conferred by the statute upon the Secretary of the Treasury, therefore it was void as unwarrantedly delegating legislative authority, because we think to state the proposition is to answer it."*

Supreme Court Cited the following cases in reaching this conclusion:

- ***Marshall Field & Co. v. Clark***, 143 U. S. 649,36 L. ed. 294, 12 Sup. Ct. Rep. 495;
- ***Buttfield v. Stranahan***, 192U. S. 470, 496, 48 L. ed. 525, 535, 24 Sup. Ct. Rep. 349;
- ***Oceanic SteamNav. Co. v. Stranahan***, 214 U. S. 320, 53 L. ed. 1013, 29Sup. Ct. Rep. 671.

That's right!: According to the Supreme Court, the Federal Income tax is VOID because the Secretary of the Treasury has NO LAWFUL DELEGATED AUTHORITY TO ADMINISTER THE TAX OUTSIDE THE FEDERAL ZONE! When it comes to income taxes, the truth can sometimes be stranger than fiction!

NOTE: The Supreme Court not only referred to the contention but stated it and thus answered it citing case precedent. In answering the contention in the ruling of the Court the Supreme Court Justices rendered the federal income tax VOID. Since no one else to my knowledge has ever cited this fact the Courts may not honor the ruling. Nevertheless it is a factual statement under the Law that the Congress cannot delegate its powers to anyone, or anything, or any entity. Another factual statement in the Law is that the Congress cannot breach the balance of power between branches of government by giving its legislative power to the executive branch. Both of these statements are set in stone. For either one or both of those reasons the federal income tax AND the Internal Revenue Service are unconstitutional.

5.4.9 The Department of Justice has NO Authority to Prosecute IRC Subtitle A Income Tax Crimes!

The responsibility of the Department of Justice is to prosecute individuals for violation of the tax laws. Their authority is derived from 28 C.F.R. 0.70, which you can read for yourself at:

http://squid.law.cornell.edu/cgi-bin/get-cfr.cgi?TITLE=28&PART=0&SECTION=70&TYPE=TEXT

The U.S. Attorney Manual, section 6-1.000 also describes their lawful role in tax prosecutions, which is also available at our website at:

http://familyguardian.tzo.com/Publications/USAttyManual/title6/title6.htm

The Department of Justice prosecutes tax crimes using a document called the Department of Justice, Tax Division, Criminal Tax Manual. The 1994 version of this document is posted on our website in its entirety for you to read and examine at http://familyguardian.tzo.com/. (Incidentally, we are working on a similar manual of our own, called the Tax Freedom and Privacy Litigation Manual, which you can use at your discretion to litigate against DOJ frivolous enforcement actions). The IRS relies on the Department of Justice to:

1. Decide whether a particular tax case should be litigated.
2. Institute the litigation.
3. Criminally prosecute against tax crimes which they have delegated authority to prosecute.

If you examine the U.S. Attorney's Manual, the Department of Justice has NO delegated authority to prosecute tax crimes involving U.S. citizens. Here is the section from their manual dealing with their authority to prosecute tax crimes involving the IRS:

> *6-4.270 Criminal Division Responsibility*
>
> ***The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS. Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-operated gambling and amusement machines;*** *malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws (but not omnibus clause); and unauthorized mutilation, removal or misuse of stamps. See 28 C.F.R. Sec. 0.70.*

Section 7801 of the Internal Revenue Code concurs with the above description:

> *Sec. 7801. Authority of Department of the Treasury*
>
> *(a) Powers and duties of Secretary*
>
> *Except as otherwise expressly provided by law, the administration and enforcement of this title shall be performed by or under the supervision of the Secretary of the Treasury.*
>
> *(b) Repealed. Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1078)*
>
> *(c) Functions of Department of Justice unaffected*
>
> ***Nothing in this section or section 301(f) of title 31 shall be considered to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by law existing on May 10, 1934.***

QUESTION FOR DOUBTERS: Do you see anything in the above authority of the DOJ relating to prosecuting tax crimes involving any of the following? We don't!:

1. Tax evasion of income taxes (26 U.S.C. §7201)
2. Frivolous returns (26 U.S.C. Sec, 6702)
3. Willful failure to file (26 U.S.C. §7203)

5.4.10 If You Aren't a "U.S** citizen", You Don't Have to Provide your Social Security Number on Your Tax Return

There is a presumption found in 26 CFR § 301.6109-1(b) that if you submit a tax return to the U.S. government, then you are by default a "U.S.** person". A "U.S. person" is a 14th Amendment federal citizen who technically must have been born or naturalized in the United States** (District of Columbia or U.S. possessions). Unless you refute this presumption of U.S.** citizenship with proof, then the courts will treat you as a U.S.** citizen. As a presumed U.S.** citizen or a "U.S.** person", you have NO Constitutional rights according to the u.S. Supreme Court in ***Downes v. Bidwell***, 182 U.S. 244 (1901)! Here is what the law says about the requirement to provide a social security number when furnishing income tax returns:

> *(b) Requirement to furnish one's own number--(1) U.S. persons. Every **U.S. person** who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions.*

The point is that if you aren't a "U.S.** citizen" or "U.S.** person", then you ***aren't*** required to provide an identifying number on any tax return. That's the foundation of the reason in this section why we recommend that you expatriate from your federal citizenship.

Even more interestingly, under 26 CFR § 301.6109-1(g), having a social security number creates a presumption that you are a be U.S.** citizen and you therefore have to rebut the presumption. If you want to overcome the presumption that you are a U.S. citizen or U.S.** person, then you must request a change in the status of your Social Security Number! Here is what the law says about the requirement to provide a social security number when furnishing returns:

> *(g) Special rules for taxpayer identifying numbers issued to foreign persons--(1) General rule--(i) Social security number. **A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual.** A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a*

> *nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.*

We give you instructions in section 8.5.3.13 entitled "IMPORTANT: Change Your U.S. Citizenship Status" on how to expatriate from 14th Amendment or U.S.** citizenship and to obtain evidence proving your change in citizenship. This frees you from the legal obligation to complete income tax returns. We can't guarantee that the IRS will never bother you again if you don't file beyond that point, but we do help to minimize the risk that they will bother you or cause any trouble by showing you how to prove that you aren't a U.S.** citizen or aren't therefore liable for submitting returns or paying income tax.

5.4.11 Legal Quick Sand Regarding "Volunteering" for Income Taxes

Now consider the following facts:

1. The Internal Revenue Code does NOT apply to U.S. citizens who are living and working within the 50 states who are not involved in certain occupations (like alcohol, tobacco and firearms) or acting as fiduciaries of nonresident aliens; and,
2. The IRS does NOT have jurisdiction over those who are NOT the subject of the law or who live outside of the "federal zone"; but,
3. It is also a fact that the person who has "voluntarily applied" for the privilege of participating in and receiving social security entitlements, agrees to the terms of participation; and that,
4. The terms of participation require "an accounting" for deductions that the agency (IRS) administers; Therefore, in so doing...
5. Those who have voluntarily chosen to participate have voluntarily subjected themselves to the jurisdiction of the agency that administers its provisions (the IRS).

If you have a social security number then the IRS DOES have the jurisdiction and authority to maintain records on you in order to administer provisions of law regarding your voluntary participation in social security and may act (correctly or not) on presumptions with regard to those records.

Even though the law does not impose participation, jurisdiction is established by virtue of an application to participate. But wait--you say that you did not apply-that it was your parents who applied for the number on your behalf, or that you applied for the number believing that it was required, and that you are therefore NOT participating voluntarily? Is there jurisdiction?

The questions are entirely irrelevant. The very fact that someone possesses and uses (or has used) the number, is reason enough to "presume" that someone has knowingly and voluntarily contracted to participate in the program.

Voluntary participation involves the "jurisdiction" of the agency of government responsible for administering whatever portions of the terms of the agreement are involved (i.e. deductions to build credit toward entitlement).

What agency of the government has that jurisdiction? The IRS! Do you want to participate and receive an entitlement? (presumably so--if you have the number). Then you must want deductions to be made from your paycheck! (presumably so--if you have the number).

Ever wonder why the social security administration will not expunge a person's number, even after a notice of revocation of application has been received? The government does not want to give up its presumption of jurisdiction without a fight.

5.4.12 Voluntary Withholding Implementation Issues

Who can make deductions from your paycheck, and who can have deductions made? Only "employer(s)" and "employee(s)" who are under the jurisdiction of, and have the relationship described for purpose of chapter 24 of the Internal Revenue Code (Title 26 of the Code of Federal Regulations).

The relationship is contractually significant when the "employee" with a social security number submits a W-4 to the "employer". Under that circumstance only, an employer has the "authority" to withhold--not necessarily a legal requirement (by law) to withhold--but an "authority" to withhold--granted not by the law itself--but by the permission of the employee who wishes to enter into the "relationships" mentioned in section 3402 of the I.R.C.

The requirement to withhold belongs to the employer--if--he has chosen to participate and receives a W-4 from his employee, but it is the employee who makes the final determination by submitting the W-4. To do so is to create an implied legal obligation (a presumption).

The tax associated with the requirement (that is used as the basis for building credits toward entitlement) is then collected from those who choose to voluntarily participate. Provisions for such withholding (even from volunteers) do exist, but they are limited in application as far as actual "requirements" so the question becomes:

Who are the required participants?; and, are the voluntary participants subjecting themselves to the same legal requirements as the required participants? More important, do the voluntary participants have "taxable income?"

If required participation is limited to nonresident aliens, do U.S. citizens subject themselves to any of the legal requirements imposed on the nonresident alien? The answer is a little oblique.

No, of course not--at least not under the law itself--but everything is based on presumption; and when there is a systematic effort to "encourage voluntary compliance" the presumption that a volunteer is a "required participant" is all that is necessary.

Why? Because the legal requirements of the mandatory participant are taken on by the volunteer who may be "presumed" to be a mandatory participant who is under the law and thus any legal requirements that it might impose.

The volunteer faces any misapplication that may, for whatever reason, intentional or unintentional, be perpetuated by the process.

5.5 The Laws that Say We Aren't Liable to *File* Tax Returns or Keep Records

5.5.1 You're Not a "U.S. citizen" If You File Form 1040, You're a "Resident Alien"!

The income tax is "imposed" in 26 U.S.C. §1 on "U.S. citizens" and nonresident aliens. 26 CFR § 1.1-1 explains this section as follows:

> *26 CFR § 1.1-1 Income tax on individuals*
>
> *(a) General rule*
>
> *(1) Section 1 of the Code* ***imposes an income tax on the income of every individual who is a citizen or resident of the United States*** *and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual…*

Later in the regulations, in section 26 CFR § 1.1441-1(c), we find that the definition of "individual" means an alien or nonresident alien. If you are a "U.S. citizen", then you can't be an "individual", because the two are mutually exclusive! Here's the definition of "individual":

> ***26 CFR 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).***
>
> *(ii) Nonresident alien individual.*
>
> *The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, 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 Sec. 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.*

By the way, don't be distracted by the title of the regulation above, because the titles mean nothing according to 26 U.S.C. Section 7806(b). The title says "foreign persons", and in fact that's exactly what you declare yourself to be when you file a form 1040! So the question is, how can you be liable for an income tax as a "U.S. citizen"? The answer is you can't. That's why the IRS doesn't ask you on your 1040 income tax return if you are a "U.S. citizen" and instead they put a title at the top that says "U.S. Individual"! You can't be a "U.S. citizen" if you are a "U.S. Individual" because the two are mutually exclusive! By being a "U.S. individual", you are declaring yourself to be either a "nonresident alien" or an "alien" based on the definition of "individual" above, which is the ONLY definition of "individual" anywhere in the Treasury Regulations, 26 CFR. Now since the form 1040NR is filed by "nonresident aliens" and since we must either be an "alien" or a "nonresident alien" to be a "U.S. individual" subject to income taxes, the *only* thing we can be is an "Alien" under 26 CFR § 1.1441-1(c)(3)(i). Leave it to an IRS lawyer to figure out how to fool you into admitting that you are legally an alien in your own country so that you can be taxed. Outrageous, isn't it?

The definition for "individual" that the government wants you to *incorrectly* ***assume***, however, is that found in 5 U.S.C. §552(a)(2):

> *(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;*

But this definition of "individual" is superceded by the only definition of "individual" found in the Regulations for taxes in 26 CFR 1.1441-1 above.

Here's a defintion from Black's Law Dictionary that confirms the findings of this section:

> *Black's Law Dictionary 6th edition:*
>
> *Resident alien. "One, not yet a citizen of this country, who has come into the country from another with the intent to abandon his former citizenship and to reside here." [Underlines added]*

If you are a "U.S. national" then you fit the description of being a "Resident alien" above because you are not a "U.S. citizen"!

5.5.2 You're NOT the "individual"mentioned at the top of the 1040 form if you are a "U.S. citizen" Residing in the "United States"**!

The term "individual" is never defined anywhere in the Internal Revenue Code but appears at the top of the 1040 form "U.S. ***Individual*** Income Tax Return" and is mentioned also in 26 U.S.C. §1 and 26 U.S.C. §6012(a). So who is this individual? Here is the definition, hidden deep inside the Treasury regulations in a place you would never think to look:

> ***26 CFR 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).***
>
> *(ii) Nonresident alien individual.*
>
> *The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, 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 Sec. 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 citizens or residents of the United States***! 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 U.S.** citizen or a U.S.** resident on a 1040 income tax return! That is why they don't ask you if you are a "U.S. citizen" on the tax return and only say at the top "U.S. ***Individual***"! This is consistent with our findings elsewhere in this chapter. It also explains why a U.S. citizen is defined as someone who lives in the Virgin Islands, Guam, Puerto Rico, or American Samoa, as follows:

> *26 CFR 31.3121(e) 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.*

You therefore can't be a "individual" who can be the subject of Subtitle A income taxes under 26 U.S.C. §1 unless you either reside OUTSIDE the "United States*" (the country) under 26 CFR § 1.1441-1(c)(3) or you reside INSIDE the United States** and are not a U.S.** citizen. 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 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 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".

Even more interesting is the fact that form 1040NR is intended for nonresident aliens. The only type of "individual" not covered by the 1040NR is the "Alien". Therefore, the 1040 form is intended for "Aliens". How does it feel to be an "alien" in your own country? Leave it to greedy lawyers to dream up this kind of deception using definitions to fool you into paying taxes. The definition of Alien above excludes U.S. citizens or U.S. nationals, so you have to in effect commit fraud by declaring yourself to be a ***foreigner*** living in the federal zone in order to be the subject of the income tax.

The next time you file a Form 1040 as the "U.S. national" that you rightfully are, consider that you are committing "fraud" by claiming to be a "U.S. Individual". Your employer is also committing fraud on the W-2 he sends to you by claiming in Block 2 that you earn "wages", which you will find out later in section 5.6.3 means that you are an elected or appointed employee of the federal government and who comes under the Public Salary Tax Act of 1939! No kidding!

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 26CFR, 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 CFR (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!

5.5.3 No Law Requires You to Keep Records

26 U.S.C. §6001 states the following:

> *TITLE 26 - INTERNAL REVENUE CODE*
> *Subtitle F - Procedure and Administration*
> *CHAPTER 61 - INFORMATION AND RETURNS*
> *Subchapter A - Returns and Records*
> *PART I - RECORDS, STATEMENTS, AND SPECIAL RETURNS*
>
> *Sec. 6001. Notice or regulations requiring records, statements, and special returns*
>
> *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 may from time to time prescribe.* ***Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.*** *The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).*

If you look through all of the regulations pertaining to Subtitles A through C income taxes in the Internal Revenue Code, you will not find a single regulation requiring you to keep records to comply with the requirements of the code. The only thing records are needed for is to justify exemptions claimed during an examination or audit. The purpose of examinations and audits by the IRS is to exclude exemptions and thereby increase the amount of tax owed by the person being audited. However, if you don't have any taxable income because your income does not fall in the category of corporate profits (as a corporation, because the income tax is only legal as an indirect excise tax) as identified later in section 5.6.1, then you don't have to worry about exemptions so you don't have to worry about records either, unless specifically notified personally by the Secretary of the Treasury or by someone who can show you a delegation of authority order authorizing him or her to act in their behalf! If an IRS agent asks you to bring your records to an examination, you can safely tell him you were never notified personally by the Secretary of the Treasury that you were required to keep records. For examples under the Internal Revenue Code that require the keeping of records, refer to the following:

- 26 U.S.C. §4403 Record Requirements (Taxes on Wagering)
- 26 U.S.C. §5114 Records (Excise taxes on alcohol)
- 26 U.S.C. §5124 Records (Records on all distilled spirits received)
- 26 U.S.C. §5741 Records to be maintained (Records required for manufacturers of tobacco products)

Another interesting fact, is that the 1040 form constitutes a record in and of itself, which then points to the assumption of the existence of other records or evidence you have documenting the numbers on the form. If you can't be required to maintain records, then why can you be required to file a tax return!

5.5.4 Federal courts have NO authority to enforce criminal provisions of the Internal Revenue Code

26 U.S.C. §7402(f) is the only place that describes the jurisdiction of the federal district courts of the United States to enforce the Internal Revenue Code. It states:

> *For general jurisdiction of the district courts of the United States in civil actions involving internal revenue, see Section 1340 of Title 28 of the United States Code.*

Thus it is plain that district courts were only given jurisdiction to hear "civil actions"—not criminal ones—as far as the Internal Revenue Code is concerned. Even for "civil actions," the Code refers to the jurisdiction contained in Section 1340 of Title 28, the United States Code of Civil Procedure. This alone proves that all trials involving alleged criminal violations of the Code by persons residing outside the federal zone, including those under 26 U.S.C. §7201 (tax evasion) and 7203 (willful failure to file) were and are illegal, and that federal judges never had jurisdiction to conduct them!

It is well-established that in order for the U.S. government to prosecute a person for a crime, the crime must be committed on federal property subject to the territorial jurisdiction of the federal government under Article 1, Section 8, Clause 17 of the U.S. Constitution. The burden of proof belongs to the federal government to demonstrate using a preponderance of evidence that the crime was committed on federal property that was ceded to the U.S. government by the state. Proof must consist of the cession documents. You can find more information about this concept in 40 U.S.C. §255:

> ***Sec. 255. - Approval of title prior to Federal land purchases; payment of title expenses; application to Tennessee Valley Authority; Federal jurisdiction over acquisitions***
>
> *Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.*
>
> *The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.*
>
> *Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.*
>
> *Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency.*

> *The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority.*
>
> ***Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted***

To give you some examples, in United States v. Bateman, 34 F. 86 (N.D.Cal. 1888), it was determined that the United States did not have jurisdiction to prosecute for a murder committed at the Presidio because California had never ceded jurisdiction; see also United States v. Tully, 140 F. 899 (D.Mon. 1905). But later, California ceded jurisdiction for the Presidio to the United States, and it was held in United States v. Watkins, 22 F.2d 437 (N.D.Cal. 1927), that this enabled the U.S. to maintain a murder prosecution; see also United States v. Holt, 168 F. 141 (W.D.Wash. 1909), United States v. Lewis, 253 F. 469 (S.D.Cal. 1918), and United States v. Wurtzbarger, 276 F. 753 (D.Or. 1921). Because the U.S. owned and had a state cession of jurisdiction for Fort Douglas in Utah, it was held that the U.S. had jurisdiction for a rape prosecution in Rogers v. Squier, 157 F.2d 948 (9th Cir. 1946). But, without a cession, the U.S. has no jurisdiction; see Arizona v. Manypenny, 445 F.Supp. 1123 (D.Ariz. 1977).

It stands to reason then, that no federal tax crime can be prosecuted in a federal court which did not occur on federal property subject to the exclusive legislative jurisdiction of the United States under Article 1, Section 8, Clause 17. The only exception to this rule with respect to taxes are those which come under Article 1, Section 8, Clause 3 of the Constitution dealing with foreign (overseas) commerce, since this is a specific power or subject matter delegated to the national government in the constitution and it applies throughout the country and on nonfederal land within the 50 states:

> *The Congress shall have Power …To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;*

It is precisely the above clause of the constitution that explains, later in this chapter, most of the taxable sources of income found in 26 CFR §1.861-8(f), when we discuss the 861 Position in section 5.6.10 and following.

Within the 50 states, the ONLY federal crimes which can be prosecuted in a federal court that occurred outside of the territorial jurisdiction of the federal government are the following:

1. Federal government espionage.
2. Federal government sabotage.
3. Destruction of federal property.
4. Interference with the mail.
5. Frauds on the federal government.

5.5.5 Objections to Filing Based on Rights

The Bill of Rights is a series of amendments to the original U.S. Constitution that serve to constrain the authority of the federal government over citizens. They establish certain civil rights which may not be violated by the government. The first ten amendments were ratified as part of the original Constitution, and subsequent amendments were added after the

union of the first Thirteen Colonies was formed. The First, Fourth, Fifth, and Tenth Amendments clearly eliminate any possibility that the federal government can compel or force us to file tax returns. We summarize our findings here:

Table 5-12: Constitutional constraints on filing of income tax returns

Amendment	*Content*	*Applicability to filing of tax returns*
First	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.	Freedom of speech includes one's right to NOT communicate with one's government, including on a tax return.
Fourth	The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.	Filing of tax returns violates our privacy and the security of our papers and effects, most notably our business records. It exposes them to undue and unwanted examination by the government. Compelled filing of tax returns creates a police state mentality in which we can get our own family members in criminal trouble for disclosing financial information about ourselves.
Fifth	No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.	The supreme Court ruled in ***Garner v. U.S.*** (424 U.S. 648) that tax returns are the *compelled testimony of a witness*. Since the facts contained on them are submitted under penalty of perjury, they constitute evidence that can be used against a Citizen to prosecute him for criminal violation of the tax laws. The Privacy Act warning in the 1040 booklet clearly states that the tax returns are provided to the Department of Justice, whose only function is criminal prosecution. Clearly then, the filing of tax returns cannot be compelled or it would violate the Fifth Amendment. Likewise, the withholding of one's income from one's pay, which is property, cannot occur without the consent of the Citizen or it would constitute deprivation of property without due process. That is why employers cannot withhold income from pay without receiving a W-4 "Withholding Allowance Certificate" form from the employee.
Tenth	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.	Direct taxes on citizens can be used for any social purpose and "social engineering", to usurp the authority of the States. For instance, if a State passes a law permitting abortion and the federal government wants to outlaw abortion, then all the federal government has to do is establish a huge tax credit for people who don't have abortions. This clearly violates the tenth Amendment.

In accordance with the U.S. Supreme Court Case of ***Garner v. U.S.***, 424 U.S. 648, income tax returns are submitted under duress and coercion and constitutes the "***compelled testimony of a witness***". Therefore, by the Fifth Amendment to the U.S. Constitution, tax returns are inadmissible as evidence in a court of law because they violate the right of non-self-incrimination and were therefore obtained illegally as per the supreme Court case of ***Weeks v. United States***, 232 U.S. 383. Below is a list of some of the types of coercion applied to compel such witnesses to testify against themselves:

1. 26 U.S.C. Sec, 7201: Attempt to evade or defeat tax (up to $100,000 fine or imprisonment not more than 5 years along with attorney fees).
2. 26 U.S.C. Sec, 7203: Willful Failure to File (fine up to $25,000 or imprisonment for one year or both)

3. Hundreds of different penalties for late filing or underpayment, as documented in Part 20 of the Internal Revenue Manual, available at: http://www.irs.gov/prod/bus_info/tax_pro/irm-part/part20.html
4. IRS Liens and levies being imposed for nonpayment of taxes.
5. Receipt of threatening mail communications from the IRS (e.g. CP-515 "Notice of Deficiency" and subsequent Notice of Lien and Levy").
6. Constant anxiety from and harassment by IRS agents (by telephone and otherwise).

Remember that the essential aspect of being a "right" is that the free exercise of rights CANNOT be penalized, taxed, or regulated in any way by the government. The above laws, however, indeed do precisely that and are therefore to be regarded as unconstitutional, illegal, null, and void and they should immediately be declared as such by all federal courts. The U.S. Constitution is and always has been the *Supreme Law of the land*, and it supercedes all other law. The below supreme Court case emphasizes constraints on treatment of the rights of citizens by both the government and individuals in ***Harman v. Forssenius***, 380 U.S 528 at 540, 85 S.Ct. 1177, 1185 (1965):

> *"It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution."* ***Frost & Frost Trucking Co. v. Railroad Comm'n of California****, 271 U.S. 583. "Constitutional rights would be of little value if they could be indirectly denied,'* ***Smith v. Allwright****, 321 US. 649, 644, or manipulated out of existence,'* ***Gomillion v. Lightfoot****, 364 U.S. 339, 345."*

The only way to overcome Fifth Amendment restrictions on the filing of tax returns that are documented above absent a waiver of rights is for the IRS to sign an "Immunity from Prosecution Letter" under 26 U.S.C. 6002-6003. In the event an authorized agent of the U.S. Government is willing to sign such an agreement for ALL future income tax returns having to do with you, then you are encouraged to submit returns, if you owe tax of course, which is highly unlikely. If there is some other way to avoid waiving rights without fear of criminal prosecution that is not documented here, then we invite your help in showing us what that method is.

One of the most famous Fifth Amendment tax resistance proponents is William Conklin. For years, he has had a standing challenge, offering up to $100,000 to the first person who can show how a Citizen can file a tax return without waiving his Fifth Amendment rights. He wrote a fascinating and excellent book about the subject called *Why No One is Required to File Tax Returns*, ISBN 1-891833-91-X, $21, copyright 1996, 2000. This book is available from Davidson Press, 21520 Yorba Linda Blvd, #G440; Yorba Linda, CA 92887-3753, info@davidsonpress.com; http://davidsonpress.com. Bill's website is at the following address:

http://www.anti-irs.com/.

For further information on issues relating to the filing of 1040 forms, please read section 6.4.1 entitled "IRS Form 1040: Conspiracy by Congress to Violate Rights".

Similar arguments as those for the 1040 form above also apply to the filing of IRS form W-4's by citizens. We discuss this subject further in section 6.5.1 entitled "IRS Form W-4 Scandals".

5.5.6 We Don't Have to Sign Tax Returns Under Penalty of Perjury, Which Makes Them Worthless and Useless![58]

The premise of this section is that there is no law pursuant to the Constitution of the United States that requires an individual to make and sign under penalties of perjury a Form 1040 tax return. Unless otherwise noted, the terms defined in this section are quoted from the 6th edition of *Black's Law Dictionary*. To readers who consider as unnecessary (or perhaps even an affront to their intelligence) listing below the definitions of some simple legal terms, the writer extends his apologies and states that by including them here he merely wishes to preclude any effort on the part of potential gainsayers who think they can refute the logical and legal premise of this work.

[58] Portions from Pitman Buck, http://www.pointecom.net/~sunlight/form1040.htm

5.5.6.1 Definitions

*"**Affiant**. The person who makes and subscribes an affidavit."*

*"**Affidavit**. A written or printed declaration of facts, made* voluntarily*, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation. ....See also Certification; Jurat; Verification." (The word "voluntarily" has been emphasized by the author.)*

*"**Authority**. Permission. Right to exercise powers; to implement and enforce laws; to exact obedience; to command; to judge. Control over; jurisdiction. Often synonymous with power. The power delegated by a principal to his agent."*

*"**Belief**. A conviction of the truth of a proposition, existing* subjectively *in the mind, and induced by argument, persuasion, or proof addressed to the judgment." (Italics added.)*

*"**Certification**. The formal assertion in writing of some fact. The act of certifying or state of being certified."*

*"**Confession**. A* voluntary *statement made by a person charged with the commission of a crime or misdemeanor, communicated to another person, wherein he acknowledges himself to be guilty of the offense charged, and discloses the circumstances of the act or the share and participation which he had in it. See 18 U.S.C.A. § 3501." (Italics added for emphasis.)*

*"**Confessions, admissibility of**. Subsections (d) and (e) of Title 18 U.S.C.A. § 3501 read as follows: "(d) Nothing contained in this section shall bar the admission of any confession made or given* voluntarily *by any person to any other person without interrogation by anyone, or at any time the person who made or gave such confession was* not under arrest or other detention*. (e) As used in this section, 'confession' means any confession of guilt of any criminal offense or* any self-incriminating statement *made or given orally or in writing." (Italics added.) Subsections (d) and (e) of the U. S. Code are quoted to show that the legal definition of "confession" is not restricted or applied solely to persons "charged with the commission of a crime or misdemeanor."*

*"**Fraud on court**. A scheme to interfere with judicial machinery performing task of impartial adjudication, as by preventing opposing party from fairly presenting his case or defense. ....It consists of conduct so egregious that it undermines the integrity of the judicial process."*

*"**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...."*

*"**Intimidation**. Unlawful coercion; extortion; duress; putting in fear. To take, or attempt to take, 'by intimidation' means willfully to take, or attempt to take, by putting in fear of bodily harm. Such fear must arise from the willful conduct of the accused, rather than from some mere temperamental timidity of the victim; however, the fear of the victim need not be so great as to result in terror, panic, or hysteria."*

*"**Involuntary confession**. Confession is 'involuntary' if it is not the product of an essentially free and unrestrained choice of its maker or where maker's will is overborne at the time of the confession. [Citation omitted.] Term refers to confessions that are extracted by any threats of violence, or obtained by direct or implied promises, or by exertion of improper influence. [Citation omitted.]"*

*"**Jurat**. Certificate of officer or person before whom writing was sworn to. In common use term is employed to designate certificate of competent administering officer that writing was sworn to by person who signed it. The clause written at the foot of an affidavit, stating when, where, and before whom such affidavit was sworn."*

*"**Knowledge**. Acquaintance with fact or truth."*

*"**Perjury**. In criminal law, the* willful *assertion as to a matter of fact, opinion, belief, or knowledge, made by a witness in a judicial proceeding as part of his evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court, or in an affidavit, or otherwise, such assertion being material to the issue or point of inquiry and known to such witness to be false." (Italics added.)*

*"**Prima facie evidence**. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim of defense, and which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence."*

*"**Proceeding**.....An act which is done by the authority or direction of the court, agency, or tribunal, express or implied; an act necessary to be done in order to obtain a given end; a prescribed mode of action for carrying into effect a legal right."*

*"**Subpoena**. A subpoena is a command to appear at a certain time and place to give testimony upon a certain matter. A subpoena* duces tecum *requires production of books, papers and other things."*

*"**Summons**. Instrument used to commence a civil action or special proceeding and is the means of acquiring jurisdiction over a party. [Cite omitted.] Writ or process directed to the sheriff or other proper officer, requiring him to notify the person named that an action has been commenced against him in the court from where the process issues, and that he is required to appear, on a day named and answer the complaint in such action."*

*"**Verification**. Confirmation of correctness, truth, or authenticity, by affidavit, oath, or deposition." Affidavit of truth of matter stated and object of verification is to assure good faith in averments or statements of party."*

*"**Voluntary**. Unconstrained by interference; unimpelled by another's influence, spontaneous; acting of one's self. [Cites omitted.] Done by design or intention. Proceeding from the free and unrestrained will of the person. Produced in or by an act of choice. Resulting from free choice, without compulsion or solicitation."*

*"**Willful**. Proceeding from a conscious motion of the will; voluntary; knowingly; deliberate. Intending the result which actually comes to pass; designed; intentional; purposeful; not accidental or involuntary."*

*"**Witness,** n. In general, one who, being present, personally sees or perceives a thing; a beholder, spectator, or eyewitness. ....A person whose declaration under oath (or affirmation) is received as evidence for any purpose, whether such declaration be made on oral examination or by deposition or affidavit. Code Civ. Proc. Cal. § 1878. A person attesting genuineness of signature to document by adding his signature."*

*"**Witness tampering**. The Federal Victim and Witness Protection Act prohibits the intimidation and harassment of witnesses before they testify, as well as prohibiting*

> *retaliation, or threats of retaliation, against witnesses after they testify. 18 U.S.C.A. § 1512-1515."*

5.5.6.2 Exegesis

The jurat of the Internal Revenue Service (IRS) Form 1040 reads in relevant part:

> *"Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my* knowledge *and* belief, *they are true, correct and complete." (Italics added.)*

The U.S. Supreme Court in ***Garner v. United States***, 424 U.S. 648 (1976) stated that:

> *"The information revealed in the preparation and filing of an income tax return is, for purposes of Fifth Amendment analysis, the testimony of a 'witness,' as that term is used herein."*

Rule 603 of the Federal Rules of Evidence (Fed.R.Evid.) states:

> *"Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation* administered in a form calculated to awaken his conscience *and impress his mind with his duty to do so." (Italics added.)*

The jurat of Form 1040 establishes the premise here defended that the tax return to which the jurat refers is by law (26 U.S.C. §7206) intended to be *voluntarily* completed and signed under the penalties of perjury. This is a simple observation derived from the text of the jurat and the legal terms herein defined. Clearly, the self-assessment of income taxes by making a Form 1040 return under penalties of perjury is voluntary because the act of signing any affidavit or document that subjects its affiant to the penalties of perjury must by law be *willful*. Obviously, a *coerced* statement though by signed jurat purports it was made under penalties of perjury is nevertheless a fraudulent statement. It is not the rule of law or the payment of taxes that is here protested but a rule of intellectual tyranny invented by corrupt bureaucrats and judges who under color of law (such as 26 U.S.C. §§ 6702, 7203) penalize individuals when they fail or refuse--without being subpoenaed--to testify on Form 1040 and sign its decreed jurat that falsely purports that the form was made and signed willfully (the word means voluntarily) under penalties of perjury.

Thus, it cannot be overly emphasized that the lawful signing of the Form 1040 jurat is premised upon the "knowledge and belief" of the individual who willfully signs it and thereby certifies that he or she understands and agrees with the governmentally prescribed information on the tax return to which the jurat refers. How many people can honestly state that they have read even one page of the Internal Revenue Code upon which their completed 1040 form is presumably based? The author has studied the tax code for over ten years and has discovered nothing in it that requires any person acting in his or her capacity as an individual to file a completed Form 1040 that must be signed under penalties of perjury. However, the author did discover a statute that prohibits or stops him from making and validating under penalties of perjury the information that the IRS commissioner states must appear on a Form 1040 tax return--that statute is 26 U.S.C. §7206. Simply put, government is not free to dictate to individuals what "we the people" must believe in order to be able to make and verify under penalties of perjury a governmentally prescribed document that is based upon the term "gross income," as defined by Congress in § 61(a) of the tax code.

Moreover, the common law requires that an oath be meaningful to the witness who takes the oath and this principle underpins Rule 603 of the Fed.R.Evid. See ***U.S. v. Ward*** 973 F.2d 730 (9th Cir. 1992). This principle is applicable to jurats as well, i.e., a jurat must be crafted so as to be meaningful to its potential affiant. Thus, an oath or jurat based upon a religious belief in an Almighty God as a test of an atheist's honesty makes no sense at all. Likewise, it is absurd and a corruption of law for the IRS and the courts to force individuals to declare "under penalties of perjury" that they owe taxes which they do not know and believe they owe. It must be obvious to all but the most obtuse or predisposed minds that a Form 1040 jurat that was signed under coercion but which purports it was signed under penalties of perjury is a *fraudulent* document. A statement or Form 1040 jurat signed because of coercion by a federal agency (i.e., the IRS) is no more valid

than a confession that was beaten out of a person by the local police. Confessions and affidavits are defined as voluntary documents, and therefore no person acting in his or her own natural capacity may be logically or legally required to make or sign them, by whatever name they are called. The New York Times reported (July 5, 1995) that IRS Commissioner Margaret Milner Richardson said that "in IRS usage, the term 'voluntary compliance' referred to filling out tax forms, not to paying taxes." Having said that and if it reflects what Commissioner Richardson believes, why does she penalize individuals or have them prosecuted as criminals for not filling out tax forms? After explaining to an IRS agent why my knowledge and belief preclude me from conscientiously and legally signing the jurat of a 1988 Form 1040, the agent replied (a promise?) that if I would sign the jurat anyway, the IRS would not prosecute me for perjury. Now that's one for Ripley's *Believe it or Not!*

It is a rule of law that any doubt about the truth of a person's testimony given under oath or by affidavit is a question of fact for a jury to decide. The Supreme Court in ***Cheek v. United States***, 498 U.S. 192 (1991), stated:

> *"Knowledge and belief are characteristically questions for the factfinder, in this case the jury." (See also* United States v. Burton*, 737 F.2d 439 (5th Cir. 1984).*

Thus, any question about whether testimony by affidavit is the truth is for a jury to decide unless the affiant waives this right. Where testimony of a relevant affidavit is not questioned, it must be accepted in evidence as factually true.

There are only two lawful ways for a person to testify before governmental bodies or agencies such as grand juries, the Internal Revenue Service, courts of law, etc. One way is by command, whether it be by subpoena, subpoena *duces tecum* or by direct command (order) of a court after the court has gained jurisdiction over a party through the operation of a summons. In all such cases the command must name or be directed to the specific person whose testimony is sought. Subpoenas are authoritative, legal commands to persons requiring them to testify as witnesses and subpoenas *duces tecum* are legal commands to persons requiring them to produce "books, papers and other things." The only other lawful way to testify or to produce "books, papers and other things" is to do so voluntarily.

Justice Hugo Black declared in ***U.S. v. Kahriger***, 345 U.S. 22 (1953) that, "The United States has a system of taxation by *confession*." (Italics added). Of course compelled confessions are not legal under the Constitution which is why Congress mandated the inclusion of the jurat on Form 1040, thus informing the jurat's potential affiant that unless he/she knows and believes the governmentally defined and preordained answers to the form's prescribed questions are correct, complete and true, then the individual acting in his/her personal capacity may not be required to sign the jurat under any statute or regulation. Justice Black did not state the nature of the confession by which the self-assessment of income taxes is made but any legal confession must be "voluntary," ***Bram v. United States***, 168 U.S. 532 (1897), and "the product of a rational intellect and a free will," ***Townsend v. Sain***, 372 U.S. 293 (1963).

Moreover, the Supreme Court in ***Flora v. United States***, 362 U.S. 145 (1960), admitted the nature of the tax return confession when it ruled that:

> *"Our tax system is based upon* voluntary *assessment and payment,* not *upon distraint." (Italics added).*

These are not idle words as the Court ruled in ***United States v. Mason***, 412 U. S. 391 (1973), that under the doctrine of *stare decisis*

> *"the people have a right to rely upon the decisions of this Court and not be needlessly penalized for such reliance."*

Clearly, the federal government's coercing of individuals--through the use of fear, intimidation, threats of prison sentences and heavy penalties--to get them to complete and sign tax forms that falsely purport they were made and signed under penalties of perjury is as unconstitutional if not quite as brutal as policemen beating signed, involuntary confessions out of people. How valid or credible is testimony when given involuntarily to satisfy public officials and when based upon the tyranny of mind and/or body? Remembering that the Supreme Court in *Garner* (supra) stated that:

> *"The information revealed in the preparation and filing of an income tax return is, for purposes of Fifth Amendment analysis, the testimony of a 'witness,'"*

It is obvious that absent an individual's having been served a subpoena to testify on a Form 1040 or served a subpoena *duces tecum* to produce a Form 1040 tax return or ordered by a court to file one, the individual is under no legal compulsion or duty to do so. See also *Wigmore on Evidence*, McNaughton. rev., at 378, 379.

5.5.6.3 Conclusion

The making and signing under penalties of perjury of a Form 1040 return is *dependent* upon the "knowledge and belief" of its potential affiant and inasmuch as individuals under the First Amendment enjoy the rights to freedom of conscience, knowledge and belief and to the expression thereof, it is clear that the filing of a completed and legally validated Form 1040 tax return rests upon its *voluntary* subscription in "compliance with the tax laws," of which § 7206 of the Internal Revenue Code is a part. The definition of perjury supports the proposition that the crime of perjury is based upon the willful assertion or affirmation--known to a witness to be false--of a fact, belief, or knowledge, made by the witness in a judicial proceeding such as an open court or by affidavit for potential presentation to courts as admissible evidence. The IRS coerces individuals by fear, intimidation, threats of penalties and criminal prosecution (and sometimes by implied promises not to prosecute them) to complete and sign prescribed, Form 1040 "taxation by confession" documents that euphemistically are called "self-assessed tax returns" under the ruse that they are voluntarily completed and signed and thereby subject their affiants to the penalties of perjury. This method of assessing and collecting taxes is a monumental *fraud* perpetrated upon the people under the guise of law; it is unconstitutional because it is fraudulent, if for no other reason. This deceptive practice is not the practice of law but of intellectual tyranny and witness tampering. When the government forces millions of individuals to file prescribed, Form 1040 testimony under a prescribed jurat that *falsely* purports that it was signed under penalties of perjury and such testimony is used against the individuals in courts of law that accept these coerced returns as certified evidence of what the individuals as witnesses "know and believe" (about a complex tax code that most of them have never read and about which even judges differ), can any reasonable person doubt the absurdity, the duplicity, the invalidity and the unconstitutionality of the Form 1040 involuntary confession of taxation?

5.5.7 1040 and Especially 1040NR Tax Forms Violate the Privacy Act and Therefore Need Not be Submitted

The Privacy Act of 1974 and subsequent amendments places stringent requirements on all paper forms that the federal government produces and distributes to the public. Among the laws regarding privacy is Public Law 96-511, which states the following relative to forms provided to the public by the federal government:

> *[It] "**requires all information requests of the public to display a control number, an expiration date, and indicate why the information is needed, how it will be used, and whether it is a voluntary or mandatory request**. Requests which do not reflect a current OMB control number or fail to state why not, are 'bootleg'[59] requests and may be ignored by the public".*

If you examine the IRS Forms 1040 and 1040NR, they do NOT meet these criteria. Below is a summary of the problems with these forms as they relate to the Privacy Act of 1974:

5.5.7.1 IRS Form 1040

The Privacy Act statement on the 1040 Tax form is as follows:

[59] Bootleg—adj. 6. Made, sold, or transported unlawfully. (Websters's New Universal Unabridged Dictionary, Random House Dictionary of English Language).

"For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 56."

Then on page 56 of the year 2000 1040 booklet, it says:

"The IRS Restructuring and Reform Act of 1998, the Privacy Act of 1974, and Paperwork Reduction Act of 1980 require that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your responsibility is voluntary, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or proves your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections [but only if you owe tax!]. Code section 6109 requires that you provide your social security number or individual identification number on what you file. *This is so we know who you are, and can process your return and other papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund or for authorizing the IRS to discuss your return with the paid preparer shown. You also do not have to provide your daytime phone number.*

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of the Internal Revenue law.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure out and collect the right amount of tax.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may be charged.

Generally, tax returns and return information are confidential, as stated in Code section 6103. However, Code section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we my disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may also disclose your tax information to Committees of Congress; Federal, state, and local child support agencies; and to other Federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans.

> *Please keep this notice with your records. It may help you if we ask for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office."*

As we point out in section 5.6.6, if you examine the entire Internal Revenue Code, you will not find a single statute making anyone liable to pay a tax under Subtitle A, Income taxes. So why didn't the IRS in the Privacy Act notice above just come out and say you don't have to file the return because there is not statute making you liable? Instead, they say you must file the form for any tax "you are liable for", which is NONE! That means the form is voluntary and *not* mandatory, but they couldn't say that, because then no one would ever pay their taxes. This is part of their crafty deception that perpetuates fraud on a massive scale against the American public..

The 1040 form itself that comes inside the booklet that contains the above statement does not have a valid expiration date. The IRS also doesn't state on this form:

- What the definition of "person" is. Because the income tax, according to the Supreme Court and the Congressional Research Service (see section 10.1, CRS Report 97-59A), is an indirect excise tax, then only those entities in receipt of U.S. government privileges are liable for the tax. In this case, these "persons" are Corporation or Partnership registered in the District of Columbia or elected or appointed officers of the United States Government.
- Natural persons who do not meet the above definition of "person" need not fill out the tax form! The government is so aware of this that they deleted the definition of person originally pointed to in 4 U.S.C. Sec. 110(a). This section of the code, even to this day, points to a nonexistent 26 U.S.C. §3797, which formerly defined the term "person"!
- A natural person has a Fifth Amendment right to not provide any of the information requested and cannot be penalized for doing so in any way. One cannot be penalized, fined, or taxed for exercising rights guaranteed by the U.S. constitution.
- That you do not have to provide an SSN if you are not liable for tax. Therefore, if you are applying for a refund of all amounts paid, you need not provide an SSN and can remove it from all the W-2's and 1099 forms you get so as not to incriminate yourself.

5.5.7.2 IRS Form 1040NR

On page 18 of the year 2000 1040NR booklet, it says the following:

> *Disclosure and Paperwork Reduction Act Notice*
>
> *The IRS Restructuring and Reform Act of 1998 requires that we tell you the conditions under which return information may be disclosed to any party outside the Internal Revenue Service. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need the information to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.*
>
> *This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.*
>
> *You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.*
>
> *Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose*

> *or give the information you write on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information that we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may also disclose your tax information to Committees of Congress; Federal; state, and local child support agencies; and to other Federal agencies for purposes of determining entitlement for benefits or the eligibility for an the repayment of loans.*
>
> *Keep this notice with your records. It may help you if we ask you for other information. If you have any questions about the rules for filing and giving information, call or visit any Internal Revenue Service office.*

Its very obvious that the privacy notice on this booklet is far less complete than the 1040 form. Based on the above and the content of the 1040NR form itself, we conclude that:

1. 1040NR form:
   - 1.1. Does NOT have any kind of privacy act notice.
   - 1.2. Does NOT have an expiration date.
   - 1.3. Does NOT state whether the form is *voluntary* or *mandatory*.
2. Booklet:
   - 2.1. Does not even mention the Privacy Act of 1974. At least the 1040 booklet mentioned this act.

Clearly, this form violates the Privacy Act of 1974 and is "bogus" and may be ignored by the public because under the circumstances, the federal government has absolutely no jurisdiction. According to Public Law 96-511, this form may be disregarded. We have to ask ourselves based on these conclusions:

"Why would the IRS not want to state whether the form is voluntary or mandatory?"

The answer is that if they told the truth, the form would be indicated as voluntary and not mandatory for persons living in the 50 states of the United States of America. If they did that, NO ONE would fill it out and their empire and house of cards would crumble! So instead, they blatantly violated the Privacy Act of 1974 and Public Law 96-511 and counted on the fact that most people filling out the form wouldn't notice the violation. Why? Because most of the people who fill out this form are foreigners from other countries who don't know our tax laws! Pretty sneaky, huh? That's how the IRS operates and it's EVIL.

5.5.7.3 Analysis and Conclusions

Now we look up the code sections mentioned above to support and summarize our conclusions above:

Form	*Privacy Act of 1974 Violation(s)*
6109	**Sec. 6109. Identifying numbers** (a) Supplying of identifying numbers When required by regulations prescribed by the Secretary: (1) Inclusion in returns Any person ***required under the authority of this title to make a return***, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person. [***COMMENT***: This means you don't have to provide an SSN if you aren't required to file. For instance, if you are applying for a refund in full, then you aren't required to provide an SSN and can remove it from any W-2's and 1099's because filing is

Form	*Privacy Act of 1974 Violation(s)*
	optional]
6001	**Sec. 6001. Notice or regulations requiring records, statements, and special returns** 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 may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a). [***COMMENT***: If you aren't liable for tax, then you don't have to keep records, which is most of us]
6011	**Sec. 6011. General requirement of return, statement, or list** • (a) General rule When required by regulations prescribed by the Secretary ***any person made liable for any tax*** imposed by this title, or with respect to the collection thereof, ***shall make a return or statement*** according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations. • (b) Identification of taxpayer The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons. [***COMMENT***: Chapters 21 and 24 are for employment taxes and not income taxes, so the requirement to provide an SSN only applies to employers, and not individuals.]
6012(a)	**Sec. 6012. Persons required to make returns of income** • (a) General rule Returns with respect to income taxes under subtitle A shall be made by the following: • (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 required of an individual - ▪ (i) who is not married (determined by applying section 7703), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, ▪ (ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, ▪ (iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or ▪ (iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home. Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c). ○ (B) The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1). ○ (C) The exception under subparagraph (A) shall not apply to any individual -

Form	*Privacy Act of 1974 Violation(s)*
	▪ (i) who is described in section 63(c)(5) and who has - ○ (I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or ○ (II) total gross income in excess of the standard deduction, or ▪ (ii) for whom the standard deduction is zero under section 63(c)(6). ○ (D) For purposes of this subsection - ▪ (i) The terms "standard deduction", "basic standard deduction" and "additional standard deduction" have the respective meanings given such terms by section 63(c). ▪ (ii) The term "exemption amount" has the meaning given such term by section 151(d). In the case of an individual described in section 151(d)(2), the exemption amount shall be zero. • (2) Every corporation subject to taxation under subtitle A; • (3) Every estate the gross income of which for the taxable year is $600 or more; • (4) Every trust having for the taxable year any taxable income, or having gross income of $600 or over, regardless of the amount of taxable income; • (5) Every estate or trust of which any beneficiary is a nonresident alien; • (6) Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year; and [1] • (7) Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year. [1] • (8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit). (FOOTNOTE 1) • (9) Every estate of an individual under chapter 7 or 11 of title 11 of the United States Code (relating to bankruptcy) the gross income of which for the taxable year is not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D). [1] except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

Based on analysis of the code sections cited by the IRS, here is a summary of our conclusions:

1. If you aren't liable to pay income tax, like most people, then:
   1.1. You don't' have to submit a tax return.
   1.2. You aren't required to provide your SSN on your return. The only persons required to provide SSN's with their return are employers who are withholding, and not individuals, as indicated in 26 U.S.C. section 6011.
   1.3. You aren't required to keep records.
   1.4. You aren't required to use the forms prescribed by the IRS.
2. The 1040NR tax form totally violates the Privacy Act of 1974 and the Paperwork Reduction Act of 1980 and is a bogus form that Public Law 96-511 says you can disregard and not file. For instance, the 1040NR form doesn't have a Privacy Act notice, doesn't have an expatriation date, and the booklet doesn't even mention the Privacy Act.
3. The 1040 tax form violates Public Law 96-511 and is bogus and that law says we can disregard the form and not use it. For instance, it does not have a valid expiration date, which can be no more than three years from the date of publication.

4. If you want examples of U.S. Government forms that DO meet all the requirements of the Privacy Act of 1974 and the Paperwork Reduction Act of 1980, then you are encouraged to visit the Income Tax Freedom Forms and Instructions area of our website at http://familyguardian.tzo.com/TaxFreedom/FormsInstr.htm and click on "View Evidence" in the upper left corner of the screen and go down to the bottom of the left scroll area under sections 13 and 14.

In closing, what you need to understand is that *you must be liable for tax in order for the requirement to file the return to be mandatory*. However, the IRS Privacy Act Notice for form 1040 above does not say this. It tries to create an impression that everyone is liable. It also doesn't say what the definition of "person" is and this definition is pivotal to understanding whether you are a "person" who is liable. They want you to be fearful and confused about whether you are a person liable so they can extort money out of you. However, as we said before, "persons", in this case, are those entities and individuals who are in receipt of U.S. government privileges because the income tax is an indirect excise tax. Such persons include *ONLY* elected or appointed officers of the U.S. government, U.S. registered corporations and partnerships, DISC (Domestic International Sales Corporations), and FSC (Foreign Sales Corporations). Even the Congressional Research Service, in its Report 97-59A (which Congressmen frequently quote and distribute to constituents in answer to their tax questions and concerns), admits that the income tax is an *indirect excise tax*, which means that it is a tax on government granted privileges against businesses and corporations and not individuals. We quote and rebut this report in section 10.1 if you want to learn more.

Because of what we learned in this section, you now have some very powerful arguments you can make when you file your "statement" every year to satisfy the requirements of 26 U.S.C. 6011(a), which we recommend. We know that you aren't a person who is liable, but we also know that the IRS is incompetent and needs to be reminded regularly of our nonliability so they don't, in their ignorance, mount an assault on our person and property in their mistaken belief that we are liable. After you get out of the tax system and stop paying income taxes by following the recommendations in chapter 8 of this book, we recommend filing an annual statement in order to stay out of trouble. That statement should mention that the form (1040 or 1040NR) you are required to file is "bogus" in accordance with Public Law 96-511 and that you are therefore allowed to disregard it and submit a statement (indicated in 26 U.S.C. §6011(a)) attesting to that fact and that you are a person who is not liable for the income tax and documenting your good faith reasons for your belief, which probably will come out of this chapter of the book.

5.6 The Laws that Say We Aren't Liable to *Pay* Income Tax

This section will show clearly why we aren't liable to pay income taxes using only the laws themselves and not the IRS Publications.

5.6.1 Constitutional Constraints on Federal Taxing Power

While the current statutes and regulations document the limited application of the federal income tax, it is important to explain the reason why such a limit exists. Without an explanation of *why* the law is as it is, the conclusion may be unbelievable to some (regardless of the actual evidence). Certainly the limitation was not due to Congress not *wanting* to tax all income. Without some obstacle to Congress' power, the tax which most people now believe exists (a tax on the income of most Americans) would certainly have been imposed.

According to the Supreme Court, the broad and general wording which Congress used to define "gross income" was intended to tax all income within their power to tax.

> *"This Court has frequently stated that this language [defining "gross income"] was used by Congress to exert in this field '**the full measure of its taxing power**.'"*
> ***[Commissioner v. Glenshaw Class Co.**, 348 U.S. 426 (1955)]*

This ruling is speaking specifically of Section 22(a) of the Internal Revenue Code of 1939, which is the predecessor to the current 26 U.S.C. § 61. Congress has stated that the scope of "gross income" did not change when the law was rearranged and reworded. (It should be mentioned that the current tax code is basically just the income tax of 1913, but with many amendments over the years adding, removing, rewording, and renumbering various sections. The fundamental nature and origin of the tax remains intact.)

The general language of the definition of "gross income" (past and present) may give an initial impression of an unlimited tax on the income of every individual. However, the meaning of a statute passed by Congress is limited to those matters which the Constitution puts under federal jurisdiction.

> *"It is elementary law that every statute is to be read in the light of the constitution. However broad and general its language, it cannot be interpreted as extending beyond those matters which it was within the constitutional power of the legislature to reach." [**McCullough v. Com. Of Virginia**, 172 U.S. 102 (1898)]*

(Notice that this is not some radical decision, but is considered "*elementary law*.")

In other words, a statute may be more restricted that its general wording suggests. The above case goes on to say that Constitutional restrictions are to be *assumed* when reading a statute (state or federal), even though they are not stated.

> *"So, although **general language** was introduced into the statute of 1871, **it is not to be read as reaching to matters in respect to which the legislature had no constitutional power**, but only as to those matters within its control. And, if there were, as it seems there were, certain special taxes and dues, which, under the existing provisions of the state constitution, could not be affected by legislative action, **the statute is to be read as though it in terms excluded them** from its operation." [McCullough v. Com. Of Virginia, 172 U.S. 102 (1898)]*

So a federal statute is to be read as though it specifically *excludes* matters which the Constitution does not put under federal jurisdiction. So while, as the Supreme Court said, Congress intended to use the "*full measure of its taxing power*" by using such a generally-worded definition of "*gross income*," the Supreme Court also admits that the income tax "*cannot be applied to any income which Congress has no power to tax*" [***William E. Peck & Co. v. Lowe***, 247 U.S. 165 (1918)]. So the general wording must be interpreted in light of the Constitutional limits on Congress' power. But this could pose a problem for the average American. How is he to know what the Constitutional limits are on Congress' power (when even federal judges disagree with each other on the matter)?

As mentioned at the beginning of this report, the Secretary of the Treasury is empowered (by statute) to implement and *interpret* the law. When the Treasury regulations are published in the Federal Register, that becomes the official notice to the public of what the law requires. Therefore, while the *statutes* may use general language (which might at first glance seem to include matters outside of federal jurisdiction), the *regulations* must give specifics.

Though it is phrased somewhat differently than the current 26 U.S.C. § 61, the definition of "gross income" found in Section 22(a) of the 1939 Code appears all-encompassing. The regulations under the 1939 Code, however, are very telling. (The term "net income" was used back then, which would later become "taxable income.")

> *"Sec. 29.21-1. Meaning of net income. The tax imposed by chapter 1 is upon income. Neither income exempted by **statute** or **fundamental law**... enter into the computation of net income as defined by section 21."*

The term "fundamental law" refers to the Constitution (as countless court rulings show). While the general wording of the statutes makes no such reference, here the regulations imply that some income not exempted by statute is nonetheless exempt from taxation under the Constitution. Note the distinction between income exempted by *statute*, and income exempted by the *Constitution*. This occurs again later in the same section:

> *"(b) Gross income, meaning income (in the broad sense) less income which is by **statutory provision** or **otherwise** exempt from the tax imposed by chapter 1. (See **section 22**.)"*

Again, the regulations are admitting that some things *not* exempted by *statute* are nonetheless exempt from federal taxation. The above citation refers us to Section 22 (of the 1939 Code) for the meaning of "gross income." The regulations under that section begin as follows:

> *"Sec. 29.22(a)-1. What included in gross income.*
> *Gross income includes in general [items of income listed] derived from any source whatever, **unless exempt from tax by law**. (**See section 22(b)** and 116.)"*

This refers the reader to Section 22(b) to learn what income is "exempt from tax." After saying that certain items are specifically exempted by statute, the regulations under section 22(b) (referred to in the previous citation) state:

> *"No **other** items **are exempt from gross income except** (1) those items of income which are, **under the Constitution, not taxable by the Federal Government**; (2) those items of income which are exempt from tax on income under the provisions of **any Act of Congress** still in effect; and (3) the income exempted under the provisions of section 116."*

Again the regulations explicitly state that some income is not constitutionally taxable, even though it is ***not*** specifically exempted by any statute passed by Congress. The *statutes* need not mention this, because (as shown above), the Constitutional limitations are to be *assumed* when reading any statute. But because the *regulations* must give specifics, the fact that some income not exempt by statute is exempted by the Constitution is specifically stated in the regulations. (Many tax professionals are at a loss to explain this; they are unable to identify anything which is *not* taxable under the constitution, but which is *not* exempted by *statute*.)

QUESTION FOR DOUBTERS: What types of income not exempted by statute are nonetheless, under the Constitution, not taxable by the federal government?

5.6.2 Exempt Income

The above issue of Constitutional limits on Congress' taxing power is ***not*** intended to dispute the constitutionality of the income tax. In fact, the opinion of this author, the readers, and even the courts regarding the question of taxing jurisdiction ends up being irrelevant in this case. The statutes of Congress, together with the regulations of the Secretary of the Treasury (which must also be approved by Congress), show that they believe their jurisdiction to tax incomes was limited to individuals involved in international and foreign commerce.

("International commerce" means trade which crosses country borders, such as income from *within* the United States** going to **non**resident aliens. "Foreign commerce" means trade which happens entirely *outside* of the United States of America, such as a U.S. citizen working and getting paid in a foreign country, or in a federal possession.)

As discussed above, the regulations under 22(a) of the 1939 Code show that the meaning of "gross income" does not include income which is exempt by statute, or other income which is "*under the Constitution, not taxable by the Federal Government*." But, as stated before, the regulations must *specifically* inform the public of what is required, rather than leaving people to *guess* at what is Constitutionally taxable. The following is the first paragraph of the 1945 regulations under the section of statutes defining "gross income":

> *"39.22(a)-1 **What included in gross income** (a) Gross income includes in general [items of income listed] derived from any source whatever, **unless exempt from tax by law**. See sections **22(b)** and 116. [the regulations under the cited section states that some income **not** exempted by statute is "under the Constitution, not taxable by the Federal Government"] In general, **income** [not "gross income"] is 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. **Profits of citizens, residents, or domestic corporations derived from sales in foreign commerce must be included in their gross income**; but special provisions are made for **nonresident aliens and foreign corporations** by sections 211 to 238, inclusive, and, in certain cases, by section 251, for citizens and domestic corporations **deriving income from sources within possessions** of the United States. Income may be in the form of cash or of property."*

Keeping in mind the matter of taxing jurisdiction, it becomes clear that the Secretary of the Treasury in these regulations was informing the public of which matters are constitutionally taxable by the federal government. This list of taxable activities is completely absent from 22(a) of the 1939 *statutes*. As the Supreme Court has stated, "*the statute is to be read as though it in terms exclude*[s]" matters not within the constitutional power of the government to tax. At the same time, the *regulations* must give specifics to the public of what the law requires, and here they do so. Not surprisingly, the list of taxable activities in these regulations matches precisely those matters which the Constitution puts under federal jurisdiction (international and foreign commerce, and federal possessions).

Anyone claiming that this list of taxable activities is *not* exclusive (claiming instead that other types of income are also taxable) encounters a logical problem. One must then claim that the regulations specifically *say* that some income not exempt by statute *is* exempt under the Constitution, but that those regulations never give any indication as to *what* income is meant. If this list is *not* the explanation of what is constitutionally taxable, then no further explanation seems to exist (which would violate the requirement that the regulations specifically state what the law requires).

In addition, one would be hard pressed to explain why these regulations bother to specifically point out these taxable activities (when the statutes do not), if this is not a complete list of what the Secretary believed to be constitutionally taxable.

While the regulations specifically mention the Constitutional limitations, and the limits are to be *assumed* when reading the statutes, this is not to say that the statutes give no indication of the limited nature of the tax. While the general statutory definition of "gross income" by itself may be misleading, there is plenty of evidence in the statutes that shows that Congress knew the limits of its power, and stayed within those bounds. Most notably, the entire structure and contents of Subchapter N ("*Tax based on **income from sources** within or without the United States*") indicates that it is about international and foreign commerce.

5.6.3 "Taxpayer" v. "Nontaxpayer"

As we said in section 3.11.1.20, the the word "taxpayer" is defined as someone who is "liable for" and "subject to" the income tax in Subtitle A and the IRS refers to everyone as "taxpayers" because that is what they want everyone to be. Here is the way one of our readers describes how he reacts to being habitally called taxpayer by the IRS:

> *I refuse to allow any IRS or State revenue office to call me or any client a "taxpayer". Just because I may look like one or have the attributes of one does not necessarily make me one. To one IRS lady, and I have no reason to doubt that she fits this category, I use the following example. "Miss you have all of the equipment to be a whore, but that does not make you one by presumption." Until it is proven by a preponderance of evidence I must assume you are a lady and you will be treated as such. Please have the same respect for me, and don't slander my reputation and defame my character by calling me a whore for the government, which is what a "taxpayer" is.*
>
> *(courtesy of Eugene Pringle)*

Funny! The IRS DOES NOT have the authority to bestow the status of "taxpayer" on anyone. Below is the cite confirming this from ***Botta v. Scanlon***, 288 F.2d. 504, 508 (1961) held:

> *"A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the states as a person liable for the tax without an opportunity for judicial review of this status before the appellation of 'taxpayer' is bestowed upon them and their property is seized..."*

Furthermore, 28 U.S.C. §2201 removes the authority of federal courts to declare that status on a sovereign American as a "taxpayer" also!:

> *United States Code*

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 151 - DECLARATORY JUDGMENTS
Sec. 2201. Creation of remedy

(a) ***In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986****, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority,* ***any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration****, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.*

(b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food, Drug, and Cosmetic Act.

The federal courts themselves agree that they do not have the jurisdiction to bestow the status of "taxpayer" upon someone who is a "nontaxpayer":

"And by statutory definition the term "taxpayer" includes any person, trust or estate subject to a tax imposed by the revenue act. ...Since the statutory definition of taxpayer is exclusive, the federal [and state] courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..." ***C.I.R. v. Trustees of L. Inv. Ass'n****., 100 F.2d.18 (1939)*

"We the People", as the Sovereigns, enjoy an especial status as a "nontaxpayer" until such time as we take on the mantle of an artificial entity and by implication of the special privilege we engage in and the special license required we may surrender our sovereign status and become a "taxpayer"....but this event cannot take place without full knowledge and willful participation by the individual. For cases dealing with the term "nontaxpayer" see: ***Long v. Rasmussen***, 281 F. 236, 238 (1922); ***Rothensis v. Ullman***, 110 F.2d. 590(1940); ***Raffaele v. Granger***, 196 F.2d. 620 (1952); ***Bullock v. Latham***, 306 F.2d. 45 (1962); ***Economy Plumbing & Heating v. United States***, 470 F.2d. 585 (1972); and ***South Carolina v. Ragan***, 465 U.S. 367 (1984).

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

"The distinction between persons and things within the scope of the revenue laws and those without is vital." ***Long v. Rasmussen****, 281 F. 236 @ 238(1922).*

5.6.4 The Definition of "income" for the purposes of income taxes

Amazing as it may sound, the entire Internal Revenue Code never defines the word "income"! It defines the word "gross income" in 26 U.S.C. §61 but it never tells you that "gross income" must also meet the Constitutional definition of "income" defined by the Supreme Court to be applied to the items of gross income appearing in that section. The older version of the code used to do that but the new version was obfuscated to disguise it. See section 6.3.7 for details on this deception.

On many occasions, and especially during examinations or summons or depositions, IRS agents and DOJ lawyers will ask people "how much income did you have during taxable year _____?" As an American living in the 50 states, the correct answer is "that depends how you define income. I didn't have any GROSS income, and the true definition of 'income' in my case is that defined in I.R.C. section 901." If you look in that section, the title of the section is "*Sec. 901. Taxes of foreign countries and of possessions of United States*" As we described earlier in section 5.2.5, everything outside of federal territories and possessions of the United States**/federal zone is "foreign" with respect o the I.R.C., and therefore each of the 50 states are considered "foreign countries" with respect to the Internal Revenue Code, as we talked about in section 5.3.3 earlier. This conclusion forms the basis for why the correct form to file for most Americans living in the 50 states who were born in the federal zone is IRS form 2555. If you look over I.R.C. section 901, the income of Americans living in the nonfederal areas simply isn't listed as being taxable within that section! You can therefore legitimately answer the auditor or revenue agent during the examination that your taxable income is a "big fat zero." One of our readers (Wayne Benston) reported that he overheard the two revenue agents whispering to him during a summons in which this subject was discussed (they whispered to each other "He knows!") and ended the deposition! Even more interesting is that the very same taxable sources appearing in 26 CFR § 1.861-8(f) and applying to both sources within and sources without the "United State**" are mentioned in this section 901 (FSC, DISC, etc).

There still remains the question as to what is constitutionally allowable as "*income*" which can be taxed, as Congress is not constitutionally free to define "*income*" in any way it chooses (***Simpson v. U.S.***, [D.C. Iowa 1976] *423 F.Supp. 720*, reversed on other grounds, ***Prescott v. Commissioner of Internal Revenue***, [C.A.] *561 F2d 1287*). Further, the labels used do not determine the extent of the taxing power (***Simmons v. U.S.***, [C.A. Md. 1962] *308 F2d 160*; ***Richardson v. U.S.***, [C.A. Mich. 1961] *294 F2d 593*, **cert. denied** *82 S.Ct. 640, 360 U.S. 802, 7 L.Ed.2d. 549*).

To reiterate; the tax authorized under the original U.S. Constitution has not changed except as to separate the source of "*income*" from the income itself permitting the collection of an indirect (excise) tax on income by leaving the source for items of gross income for the taxpayer (wages, salaries, fees for service, and first time commissions) free of tax (***Brushaber***, supra.) despite how some politicians interpret the ***16th Amendment***.

NOTE: The ***Brushaber*** court referred to an earlier case, ***Pollock v. Farmers Loan and Trust Co.***, *158 U.S. 601* [1895] which declared the **Income *Tax Act*** of 1894 unconstitutional, as it's effect would have been to leave the burden of the tax to be born by professions, trades, employments, or vocations; and in that way, what was intended as a tax on capital would remain, in substance, a tax on occupations and labor. This result, the court held, could **NOT** have been contemplated by Congress.

The general term: "*income*" is not defined in the Internal Revenue Code, (***U.S. v. Ballard*****,** [1976] *535 F2d 400*) and the U.S. Supreme Court has ruled that Congress may not make its own definition of "income" in ***Eisner v. Macomber***, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920):

> *"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 an what is not 'income,'…according to truth and substance, without regard to form.* ***Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it derives its power to legislate, and within those limitations alone that power can be lawfully exercised****… [pg. 207]…After examining dictionaries in common use 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] and* ***Doyle v. Mitchell Bros. Co.****, 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469, 62 L.Ed. 1054…"*
> *[emphasis added]*

So what is income? Here are some definitions direct from the U.S. Supreme Court as cited in one of the above-mentioned cases:

> *"…Whatever difficulty there may be about a* ***precise scientific definition of 'income****,' it imports, as used here, something entirely distinct from principal or capital either as a*

> *subject of taxation or as a measure of the tax; **conveying rather the idea of gain or increase arising from corporate activities**."*
> ***Doyle v. Mitchell Brothers Co.**, 247 U.S. 179, 185, 38 S.Ct. 467 (1918)*
> *[emphasis added]*

Has the IRS been treating you as a corporation all these years? When people see this, they say things like: "That can't be right. What's going on here?". Keep reading and we will clarify. Here is the other cite defining income mentioned in the ***Eisner*** ruling, from ***Stratton's Independence v. Howbert***, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913):

> *"This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an **excise tax upon the conduct of business in a corporate capacity**, measuring, however, the amount of tax by the income of the corporation…**Flint v. Stone Tracy Co**., 220 U.S. 107, 55 L.Ed. 389, 31 Sup.Ct.Rep. 342, Ann. Cas."*

The above is consistent with our conclusions found in section 5.1.2, where we concluded that Subtitle A Income taxes are indirect excise taxes on federal privileges. In the instant case above, the privilege is status as a federal corporation:

> *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.*

The people in receipt of federal corporate privileges are the officers of the corporation, who in this case are the elected or appointed officers of the corporation working as congressmen!

> *26 U.S.C. §7701(a)(26) DEFINITIONS*
>
> *The term "trade or business" includes the performance of the functions of a public office.*

> ***26 U.S.C. §871(b)(2)-GRADUATED RATE OF TAX…***
>
> ***"(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."***

Following is a definition of "public office":

> ***Public Office, pursuant to Black's Law Dictionary, Abridged 6th Edition, means:***
> *"Essential characteristics of a '**public office**' are:*
> *(6) Authority conferred by law,*
> *(7) Fixed tenure of office, and*
> *(8) Power to exercise some of the sovereign functions **of government**.*
> *(9) Key element of such test is that "officer is carrying out a sovereign function'.*

> *(10) Essential elements to establish public position as 'public office' are:*
> *(a) Position must be created by Constitution, legislature, or through authority conferred by legislature.*
> *(b) Portion of sovereign power of government must be delegated to position,*
> *(c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.*
> *(d) Duties must be performed independently without control of superior power other than law, and*
> *(e) Position must have some permanency."*

The section below shows the only persons from whom unpaid taxes can be collected, and note that it is elected or appointed officers of the federal corporation known as the U.S. government, who are in receipt of taxable privileges:

> *26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes*
> Sec. 6331. *Levy and distraint*
>
> *(a) Authority of Secretary*
> *If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.* ***Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.*** *If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*
> *(b) Seizure and sale of property*
> *The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).*

And the definition of "employee" confirms that these people against whom collection can be instituted are really just elected or appointed officers of the federal corporation known as the U.S. government:

> *26 CFR §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****."*

The above are the ONLY entities against whom collection actions can be instituted, and this is a reflection of the fact that the income tax is really just an embodiment or the Public Salary Tax Act of 1939! When you file a form 1040, you are in effect electing to treat your income as "effectively connected with a trade or business in the United States" which is the equivalent of saying that you want to be treated as an elected or appointed officer of the U.S. government whose income is taxable under the indirect excise tax found in Subtitle A of the Internal Revenue Code!

To extend this federal corporation metaphor even further, the debt instruments or "stock" issued by this federal corporation known as the U.S. government are ***U.S. dollars***! See the following cite right from the Supreme Court on this subject, where someone challenged the constitutionality of paper money in preference to gold-backed currency:

> *"Under the power to borrow money on the credit of the United States, and to issue circulating notes for the money borrowed, [Congress'] power to define the quality and force of those notes as currency is as broad as the like power over a metallic currency under the power to coin money and to regulate the value thereof. Under the two powers, taken together, Congress is authorized to establish a national currency, either in coin or in paper, and to make that currency lawful money for all purposes, as regards the national government or private individuals." . . . (Emphasis added)*
> Juilliard v. Greenman, 110 U.S. 421, 448, 4 S. Ct. 122, 130, 28 L. Ed. 204 (1884).

There you have it. The paper money you carry around is "stock" in the federal corporation called the "U.S. government" and that government wants to make you a "stockholder" and an officer of that corporation in receipt of federal privileges so they can tax those privileges using the Subtitle A income tax! We know, however, that they can't legitimately do this because the result would be unavoidable financial slavery:

> *"Legislature…cannot name something to be a taxable privilege unless it is first a privilege [Taxation West Key 53]…The Right to receive income or earnings is a right belonging to every person and realization and receipt of income, is therefore, not a privilege that can be taxes." [Taxation West Key 533]*-**Jack Cole Co. v. MacFarland**, *337 S.W. 2d 453, Tenn.*

> *"The obligation to pay an excise tax is based upon the voluntary action of the person taxed in performing the act, enjoying the* **privilege**, *or engaging in the occupation which is the subject of the excise, and the element of absolute and unavoidable demand is lacking."* **People ex. rel. Atty Gen. v. Naglee**, *1 Cal. 232,* **Bank of Commerce & T.Co. v. Senter**, *149 Tenn. 441, 381 SW 144*

Thank God we live in a free country, because our greedy government certainly has pushed us as far in the direction of socialism as they could since the income tax was introduced in 1913 and as it has been perfected over the last 70 or so years, haven't they? To see this federal corporation metaphor for the U.S. government extended even further, we refer you to section 4.7 for a fascinating look at the two faces of our national government: democratic socialism vs. capitalist republic. This section is well worth your time to read and study.

You don't, however, have to believe us that "income" can only be defined by the U.S. Constitution as *federal corporate profit*. Look in section 3.10.11.1, which talks about the legislative intent of the Sixteenth Amendment. That section has the entire speech of President Taft given before Congress on June 16, 1909 for the purpose of introducing the Sixteenth Amendment for ratification. Here is an excerpt from that speech:

> *I therefore recommend to the Congress that both Houses, by a two-thirds vote,* ***shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government*** *without apportionment among the States in proportion to population.*
>
> *…*
>
> *Second,* ***the decision in the Pollock case left power in the National Government to levy an excise tax, which accomplishes the same purpose as a corporation income tax*** *and is free from certain objections urged to the proposed income tax measure.*
>
> *I therefore recommend an* ***amendment to the tariff bill Imposing upon all corporations and joint stock companies for profit****, except national banks (otherwise taxed), savings banks, and building and loan associations,* ***an excise tax*** *measured by 2 per cent on the net income of such corporations.* ***This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock.*** *[Emphasis added] I am informed that a 2 per cent tax of this character would bring into the Treasury of the United States not less than $25,000,000.*

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

Here are some additional U.S. Supreme Court cites further defining "income" that clarify our assertions:

> *"Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909 (36 Stat. 112) in the 16th Amendment, and in the various revenue acts subsequently passed."*
> ***Bowers v. Kerbaugh-Empire Co.****, 271 U.S. 170, 174, (1926)*

> *"As repeatedly pointed out by this court, the Corporation Tax Law of 1909..****imposed an excise or privilege tax, and not in any sense, a tax upon property or upon income merely as income****. It was enacted in view of the decision of Pollock v. Farmer's Loan & T. Co., 157 U.S. 429, 29 L. Ed. 759, 15 Sup. St. Rep. 673, 158 U.S. 601, 39 L. Ed. 1108, 15 Sup. Ct. Rep. 912, which held the income tax provisions of a previous law to be unconstitutional because amounting in effect to a direct tax upon property within the meaning of the Constitution, and because not apportioned in the manner required by that instrument."*
> ***U.S. v. Whiteridge****, 231 U.S. 144, 34 S.Sup. Ct. 24 (1913)*

> *"The conclusion reached in the Pollack case.. recognized the fact that taxation on income was, in its nature, an excise…"*
> ***Brushaber v. Union Pacific Railroad Co.****, 240 U.S. 1, 16-17 (1916)*

> *"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)*

> *"... the definition of income approved by the Court is:*
>
> *`The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets.'"*
> **Eisner**, *supra.*

> *"Income within the meaning of the* **16th Amendment** *and the* **Revenue Act** *means, gain ... and in such connection gain means profit ... proceeding from property severed from capital, however invested or employed and coming in, received or drawn by the taxpayer for his separate use, benefit and disposal"*
> **Staples v. U.S.**, 21 F.Supp. 737,*U.S. Dist. Ct. EDPA, (1937)*

In the case of ***Lucas v. Earl***, *281 U.S. 111 (*1930) , the U.S. Supreme Court stated unambiguously that:

> *"The claim that salaries, wages and compensation for personal services are to be taxed as an entirety and therefore must be returned by the individual who has performed the services which produced the gain is without support either in the language of the Act or in the decisions of the courts construing it. Not only this, but it is directly opposed to provisions of the Act and to regulations of the U.S. Treasury Dept. which either prescribe or permit that compensation for personal services be not taxed as an entirety and be not returned by the individual performing the services. It is to be noted that by the language of the Act it is not salaries, wages or compensation for personal services that are to be included in gross income. That which is to be included is gains, profits and income* ***DERIVED*** *from salaries, wages or compensation for personal service." [Emphasis added]*

The Court ruled similarly in ***Goodrich v. Edwards***, [1921] *255 U.S. 527* and in 1969, the Court ruled in ***Conner v. U.S.***, *303 F.Supp. 1187,* that:

> *"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* **sect. 22(a)** *of the* ***Internal Revenue Code*** *of 1938, and it is likewise true under* **sect. 61(a)** *of the* ***I.R.S. Code*** *of 1954. If there is not gain, there is not income .... Congress has taxed* ***INCOME*** *and not compensation."*
>
> *"... one does not derive income by rendering services and charging for them."*
> **Edwards v. Keith**, 231 F. 111, (1916)

Even at the state level, we find courts following the lead of the U.S. Supreme Court:

> *"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)*

and:

> *"Reasonable compensation for labor or services rendered is not profit."*
> **Lauderdale Cemetery Assoc. v. Matthews**,345 Pa. 239, 47 A.2d. 277, 280 *(1946)*

Clearly, then, we have firmly established based on the above cites from the Supreme Court that:

- Congress has no authority to redefine the meaning of income. The Constitution is the only thing that can define it.
- Any attempt by Congress to redefine the meaning of income in the Internal Revenue Code can safely be disregarded if it is inconsistent with the above definitions by the Constitution and the U.S. Supreme Court.
- Income taxes authorized by the Sixteenth Amendment starting in 1913 are and always have been *indirect excise taxes* only on U.S. [federal] corporations (those registered in the District of Columbia only).
- The tax is not on income, it is a tax on *gain* or *profit* derived from the sale or conversion of federal (not state) corporate assets and the amount of tax is computed based on the amount of gain (income).
- Because the income tax is an indirect excise tax and all excise taxes are taxes on privileges, the tax must be paid by the federal corporation to the entity granting the privilege. A state-chartered corporation would ***NOT*** pay income tax to the federal government because the federal government did not grant it the privilege of existing. Likewise, a federally-chartered corporation would ***NOT*** pay income tax to a state because the state did not grant it the privilege of existing.
- The U.S. government is classified as a *federal corporation*. This can be confirmed by examining 28 U.S.C. §3002, we find:

> *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.*

- Regardless of what any circuit court says about the meaning of income, the U.S. Supreme Court's ruling above supercedes all circuit courts. This finding agrees with the Internal Revenue Manual:

> *"Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *Certain court cases lend more weight to a position than others. **A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*
> *[IRM, 4.10.7.2.9.8 (05/14/99)]*

The findings above are entirely consistent with the taxable sources listed as taxable in 26 CFR § 1.861-8(f), which are all either income earned by Americans living overseas or income from federally chartered corporate activities. How do we apply what we have just learned? Lets apply it to the Treasury Regulations, the I.R.C. (Internal Revenue Code) and the I.R.M. (Internal Revenue Manual).

Since the Rules contained in the **Internal Revenue Manual**, even if codified in the **Code of Federal Regulations**, do not have the force and effect of law (***U.S. v. Horne***, [C.A. Me. 1983] *714 F2d 206*) and the power to promulgate regulations does not include the power to broaden or narrow the meaning of statutory provisions beyond what Congress intended (***Abbot, Procter & Paine v. U.S.***, [1965] *344 F2d 333, 170 Cl.Ct. 408*) and regulations cannot do what Congress itself is without power to do; they must conform to the Constitution (***C.I.R. v. Van Vorst***, [C.C.A. 1932] *59 F2d 677*).

Since the above cases are the undisputable law with respect to what is or is not income, we find the word "*income*" does not mean all monies that come into the possession of an individual, but profit or gain **FROM** the money a [federal] corporate "person" (a legal fiction denoting a corporation) takes in, such as interest, stock dividends, profit from an employee's labors. All of these constraints on the definition of "income" result from the apportionment clauses found in Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the Constitution. None of the income of most individuals falls in the category of "income" defined by the Supreme Court, and therefore such "income" cannot be taxable "gross income" as defined in 26 U.S.C. Section 61. This means that a natural person's wages, which are compensation for his labor, are not taxable because such a tax would amount to an unconstitutional direct tax on property (labor). With no taxable "income", you are not liable to file a return.

5.6.5 You Don't Earn "Wages" Under Subtitle C So Your Earnings Can't be Taxed

A very hot topic in the tax honesty movement is the concept of the taxability of wages. Many people argue that wages received by natural persons (people) are not taxable. This is strictly true, but "wages" as defined in 26 CFR § 31.3401(a)

can be taxable *only* when received by elected or appointed federal employees and by federal corporations. This distinction is something that few people understand in our experience. Most people dig themselves a hole by never bothering to distinguish between the layman's definition of "wages" and the legal definition, and we must be very careful in all our communications to distinguish which of these two definitions we are referring to. In this book, we keep the legal version of words in quotes and the layman's version without quotes so it is especially clear which of the two definitions we are using. If you try to claim that "wages" aren't taxable on your tax return and refuse to list them, however, your claim will most often be disallowed by the IRS because you argued the wrong point. Why is that? We'll explain.

The term "Wages" is defined in 26 U.S.C. §3401(a) as follows:

> *(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*
> *(3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or*
> *(4) for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if -*
> *(A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or*
> *(B) such individual was regularly employed (as determined under subparagraph (A)) by such employer in the performance of such service during the preceding calendar quarter; or*
> *(5) for services by a citizen or resident of the United States for a foreign government or an international organization; or*
> *(6) for such services, performed by a nonresident alien individual, as may be designated by regulations prescribed by the Secretary; or*
> *(7) Repealed. Pub. L. 89-809, title I, Sec. 103(k), Nov. 13, 1966, 80 Stat. 1554)*
> *(8)*
> *(A) for services for an employer (other than the United States or any agency thereof) -*
> *(i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 911; or*
> *(ii) performed in a foreign country or in a possession of the United States by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration; or*
> *(B) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services; or*
> *(C) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to*

believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico; or

(D) for services for the United States (or any agency thereof) performed by a citizen of the United States within a possession of the United States to the extent the United States (or such agency) withholds taxes on such remuneration pursuant to an agreement with such possession; or

(9) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(10)

(A) for services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(B) for services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back; or

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

(12) to, or on behalf of, an employee or his beneficiary -

(A) from or to a trust described in section 401(a) which is exempt from tax under section 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a); or

(C) for a payment described in section 402(h)(1) and (2) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to an exclusion under such section for payment; or

(D) under an arrangement to which section 408(p) applies; or

(13) pursuant to any provision of law other than section 5(c) or 6(1) of the Peace Corps Act, for service performed as a volunteer or volunteer leader within the meaning of such Act; or

(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).*

The key to deciphering this legal speak above is to realize the definition of "employee", as follows:

> *26 CFR § 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****."*

Therefore, we can't be an "employee" unless we work for the U.S. government as an elected or appointed political official, and therefore, we can't earn "wages" that can be taxed. Furthermore, even if we were a "public official" who was elected or appointed, the definition of "wages" above in 26 U.S.C. §3401(a) excludes public officials, so we can't be taxed on those wages anyway! If we work for a private, nonfederal employer outside of the federal zone, we therefore cannot receive "wages" because we aren't "employees" as that term is defined. Therefore, the W-2 we receive at the end of each year should reflect "0" under "wages, tips, and other compensation", and we should not be liable for ANY federal income tax.

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 CFR 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, even though you aren't an elected or appointed political official of the United States, you earn "wages" as legally defined in 26 U.S.C. §3401(a)! That's why we also don't recommend filling out W-4 Exempts and instead prefer to use the W-8 form.

At law, labor is property. In fact, the Supreme Court in ***Butcher's Union Co. v. Crescent City Co.*** (111 U.S. 746) has identified labor as man's most precious property. Therefore, the exchange of one's labor as a private employee (one who does *not* work for the federal government as an elected or appointed political official) for "wages" or salary (which are also property) is considered by law to be an exchange of properties of equal value in which there is NO gain or profit for the person who performed the labor. Their employer can derive profit, but a natural person cannot profit from wages. Such a property exchange of equal value cannot therefore be taxed because there is no profit or gain. The below statute makes the above assertions very clear:

> *United States Code*

> *TITLE 15 - COMMERCE AND TRADE*
> *CHAPTER 1 - MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE*
> ***Sec. 17. Antitrust laws not applicable to labor organizations***
>
> *The labor of a human being is not a commodity or article of commerce….*

Also, one who works in an ordinary occupation is not a recipient of any privilege granted by government, because he is merely exercising his constitutionally guaranteed right to work and earn a living. Courts have repeatedly ruled that no tax may be placed upon the exercise of rights. Their reasoning was sensible. If the exercise of rights could be taxed, government could destroy them by excessive rates of taxation.

When we are thinking about income taxes, we need to think very clearly. The income tax is an indirect excise tax that applies uniformly:

- Throughout the 50 states under Article 1, Section 8, Clause 1 of the Constitution for Subtitle D taxes (see the Defintion of "United States" found in 26 U.S.C. Section 4612)
- Within the federal zone for Subtitles A through C income taxes (see the Definition of "United States" found in 26 U.S.C. §7701(a)(9)).

Consequently, we have to be very clear in our minds about the following three issues

Table 5-13: Critical questions with answers

Question	***Answer***
WHAT kind of tax is the income tax?	It is an *indirect excise tax*.
WHO is the subject of the tax (what is the definition of "person" and "individual" in the meaning of the tax code)?	"Income" as Constitutionally defined ONLY as coming from *federal corporations*. See: • ***Eisner v. Macomber***, 252 U.S. 189 (1920) • 26 CFR §6671-1(b) in section 5.4.1. Natural persons and "individuals" can "volunteer" to make their income taxable but the law doesn't require them to.
WHAT is the definition of "income"?	The Supreme Court ruled in ***Eisner v. Macomber***, 252 U.S. 189 (1920) that Congress nor the Internal Revenue Code itself CANNOT define "income", and it neither even tries to. Only the Constitution can define "income". Income is defined as "*corporate profit*" from federal corporations and not state corporations. Before you can have "gross income" you must have "income" and it must derive from taxable sources identified in 26 CFR § 1.861-8(f). See section 5.6.3 for further details on this.

It took us almost a year to fully discover the implications of the above very simple table. Unless we are very clear in our thinking in answering the above questions, we will cloud the application of the tax code, confuse the IRS, and they will disallow our claim! Please therefore keep this table utmost in your mind in all your dealings with the IRS.

Many people also try to argue with the IRS that their wages are not taxable, without clarifying what they mean or whether they fit the description of "person" found in 26 U.S.C. §7701(a)(1) or "individual", which isn't defined in the code but is defined in 26 CFR § 1.1441-1(c). *It is very common for the IRS to disallow claims for refund from people who try to argue that their wages aren't taxable*, however, and it's the *wrong point to argue with the IRS* that will get you in trouble every time. You will get in trouble because your W-2 contains a lie in block 2 saying that you earned "wages" and you never refuted that evidence and clarified that you are not an "employee". Have you ever wondered why 26 U.S.C. §61 does not list "wages" as a type of taxable income? Instead, they try to confuse the issue with the following statement in that section identified as taxable: "Compensation for services, including fees, commissions, fringe benefits, and similar items;". There is a very good reason why they didn't just come out and say "wages are taxable". This is a result of the following analysis and conclusions:

1. The Public Salary Tax Act of 1939 and the devious redefinition of "gross income":[60]

When Congress revised the 1939 Internal Revenue Code came out with the 1954 code, they removed the specific mention of wages as being taxable. ***Why would Congress REMOVE wages from the list of items of gross income if they wanted it to be taxable***? Here is the redefinition:

1. 26 U.S.C. §22(a) entitled "Gross income(a) General definition" states:

> *Gross income" includes gains, profits, and income derived from* ***salaries, wages, or compensation for personal services****...*

2. 26 U.S.C. Section 61(a)(1), entitled "Gross income defined", says the following:

> *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.*

The above changes were based on the Public Salary Tax Act of 1939, which was passed *after* the 1939 code revision. The Act, *which has never been repealed*, was extremely significant because it amends and redefines the words "gross income" [not "income'] which is the basis for calculating "taxable income," to include ONLY "compensation for services" (as public servants) earned by officers and employees of a State. As will be later documented, in statutory construction of the word "including" means "only" and cannot be expanded to add other elements not within the exact "meaning of the definition." The meaning here is "government employees" and can't be expanded to also include "private sector employees."

> *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."*

"Wages" and "Compensation for personal services" are ONLY earned by **elected or appointed federal employees**. This is why the Government rightfully argues "Wages are Gross Income.". According to their definition of "wages", they're right, but also according to their definition of "employee", you don't earn "wages"! However, by such definition, **compensation for labor in the private sector is not "wages" and is not "compensation for personal services**" unless you fill out a voluntary withholding agreement (W-4).

Elected and appointed government employees are considered to be public servants, exercising "official privileges", while employed. According to a Freedom of Information Act response in our possession, the income tax is applicable to those who chose to make themselves liable by entering into contracts with the U.S. Government. Also, such paychecks come from the District of Columbia, giving them compensation "effectively connected to" a federal area (from "within the United States" under 26 U.S.C. §861) under exclusive federal United States** jurisdiction.

2. Labor is property relative to *natural persons*, as ruled by the U.S. supreme Court in 1883 in the case of ***Butcher's Union Co. v. Crescent City Co., 111 U.S. 746 (1884)***. We repeat that ruling here for your benefit:

> *"Among these unalienable rights, as proclaimed in the Declaration of Independence is the* right *of men to pursue their happiness, by which is meant, the* right *any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment...It has been well said that,* ***THE PROPERTY WHICH EVERY MAN HAS IS HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE*** **MOST SACRED AND INVIOLABLE..."**

[60] Excerpts from *Vultures in Eagle's Clothing*, Lynn Meredith, ISBN 0-9645192-6-7 39.95, January 11, 1999; Prosperity Publishers, 562-592-9077, page 58.

This is easy to see, because if labor had no value or wasn't property or something they could acquire, then people wouldn't be willing to pay for it!

3. Receipt of wages by a *natural person* constitutes an *equal exchange* of one type of property for another: Labor exchanged for money.
4. Since the income tax is a tax on *profit*, and since receipt of wages by natural persons who don't work for the federal government is an equal exchange of property, there can be no "profit" involved, and therefore no tax on wages as income. However, money received by federal corporations in exchange for labor of *their* employees is taxable after the cost of producing the labor is deducted to arrive at corporate profit. This conclusion is supported by the following cites:

> ***Staples v. U.S., 21 F.Supp. 737 AT 739*** *"Income within the meaning of the Sixteenth Amendment and the Revenue Act, means 'gain'... and in such connection 'Gain' means profit...proceeding from property, severed from capital, however invested or employed, and coming in, received, or drawn by the taxpayer, for his separate use, benefit and disposal... Income is not a wage or compensation for any type of labor."*
>
> ---
>
> ***Oliver v. Halstead*** 86 S.E. Rep 2nd 85e9 *"There is a clear distinction between `profit' and `wages', or a compensation for labor. Compensation for labor (wages) cannot be regarded as profit within the meaning of the law. The word `profit', as ordinarily used, means the gain made upon any business or investment -- a different thing altogether from the mere compensation for labor."*
>
> ---
>
> ***Evens v Gore***, 253 U.S. 245. US Supreme court, never overruled "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 tax on salary)
>
> ---
>
> ***Edwards v. Keith***, 231 F 110,113 "*The phraseology of form 1040 is somewhat obscure .... But it matters little what it does mean; the statute and the statute alone determines what is income to be taxed. It taxes only income "derived" from many different sources; one does not "derive income" by rendering services and charging for them... IRS cannot enlarge the scope of the statute."*
>
> ---
>
> ***McCutchin v Commissioner of IRS***, 159 F2d,*"The 16th Amendment does not authorize laying of an income tax upon one person for the income derived solely from another."*[wages]
>
> ---
>
> ***Blatt Co. v U.S.***, 59 S.Ct. 186 *"Treasury regulations can add nothing to income as defined by Congress."*
>
> ---
>
> ***Olk v. United States***, February 18, 1975, Las Vegas, Nevada.*"Tips are gifts and therefore are not taxable."*
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>
> ***Commissioner of IRS v Duberstein***, 80 S. Ct. 1190. *"Property acquired by gift is excluded from gross income."*
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>
> ***Brushaber v Union Pacific R/R***, 240 U.S. I, 17; 36 S.Ct. 236, 241.*"Income has been taken to mean the same thing as used in the Corporation Excise Tax of 1909 (36 Stat. 112). The worker does not receive a profit or gain from his/her labors-merely an equal exchange of funds for services"*
>
> ---
>
> ***Central Illinois Publishing Service v. U.S.***, 435 U.S. 21 *"Decided cases have made the distinction between wages and income and have refused to equate the two."*
>
> ---

Anderson Oldsmobile, Inc. vs 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" ..."*

Conner v US, 303 F Supp 1187 Federal District Court, Houston, never overruled. *"..whatever may constitute income, therefore, must have the essential feature of gain to the recipient. This was true at the time of Eisner V Macomber, 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 IRS code of 1954. If there is not gain, there is not income, CONGRESS HAS TAXED INCOME, NOT COMPENSATION"!!!*

Bowers vs Kerbaugh-Empire Co., 271 US 174D *"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 ...."*

Brushaber v. Union Pacific Railroad Co., 240 U.S. 1 *"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..."*

Simms v. Ahrens, 271 SW 720 *"An income tax is neither a property tax nor a tax on occupations of common right, but is an EXCISE tax...The legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common right, but it has no power to declare as a 'privilege' and tax for revenue purposes, occupations that are of common right."*

Eisner v. Macomber, 252 US 189 US Supreme court, never overruled "*...the definition of 'income' approved by this court is: The gain derived from capital, from labor, or from both combined, provided it be understood to include profits gained through sale or conversion of capital assets."*

Laureldale Cemetery Assoc. vs Matthews, 345 Pa. 239; "*Reasonable compensation for labor or services rendered is not profit"*

Schuster v. Helvering, 121 F 2nd 643 *"Income is realized gain."*

5. A tax on wages of *natural persons* as a percentage of income (not "gross income", but income) from wages amounts to slavery and violates the 13th Amendment, which outlawed slavery. For instance, if your marginal tax rate is 28% and you erroneously treat your wages as income, then you are a slave for the first 28% of the year. There is no other way to look at it. The only thing necessary to make you a complete slave would be for the combined sum of the State and Federal taxes on income to consume 100% of your wages! That will happen some day, we predict, if somewhere along the line people don't wake up and protest the unjust income tax we have now! Even the press agrees with this view of income taxes, because the newspapers frequently talk about "tax freedom day", which is the first day of the year in which the nation as a whole quits working for the government and starts making money only for themselves. The implication is that everything before that is "slavery." Every year, tax freedom day gets later, and right now, we spend the first four months of the year as slaves to the government. This happens because the government raises tax rates and will continue to do so because people don't protest. However, a tax on corporate profits derived from wages is perfectly legal, ethical and moral.
6. It is not within the power of the government to impose a mandatory tax on the exercise of an occupation of common right, or natural right, or on the receipt and/or realization of the earnings received from the exercise of such a right. The Income Tax is an ***excise*** tax. To be legally required to pay an excise tax, a "person" must be involved in the

exercise of a taxable ***privilege****. Most citizens in the course of their employment are exercising **no** privileges upon which an excise tax could be imposed by law.

> ***Privilege**: "A particular benefit or advantage enjoyed by a person, company, or class beyond the common advantages of their citizens…" **(Black's Law Dictionary–6th Edition)** "…An advantage possessed by an individual or a class of persons, which is not possessed by others which exists by operation of law or by virtue of a license, franchise, grant or other permission…" **(Ballentine's Law Dictionary)**.

> "That the right to…**accept employment as a laborer for hire is a fundamental right, is inherent in every free citizen**, and is indisputable…" **United States v. Morris**, 125 F.Rept. 325, 331.

> "The conclusion reached in the Pollock case…recognized the fact that taxation on income was, in its nature, **an excise**…" **Brushaber v. Union Pacific Railroad Co.**, 240 U.S. 1, 15-17

> **EXCISES**: "Excises are taxes laid upon…licenses to pursue certain [regulated] occupations and upon **corporate privileges; the requirement to pay such taxes involves the exercise of privilege**…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**, it is no objection that the measure of taxation is income…" **Flint v. Stone Tracy Co.**, 220 U.S. 107, at pg 154, 165

> "The obligation to pay an excise is based upon the **voluntary action** of the person taxed in performing the act, enjoying the privilege, or engaging in the occupation which is the subject of the excise, and **the element of absolute and unavoidable demand is lacking**." **People ex rel. Atty Gen. V. Naglee**, 1 Cal. 232, **Bank of Commerce & T. Co. v. Senter**, 149 Tenn. 441, 381 SW 144

> "The individual, unlike the corporation, **cannot be taxed for the mere privilege of existing**. The corporation is an artificial entity which owes its existence and charter power to the State, but the individual's right to live and own property are natural rights for the enjoyment of which **an excise cannot be imposed.**" **Redfield v. Fisher**, 292 Oregon 814, 817

> "**Legislature**…**cannot name something to be a taxable privilege unless it is first a privilege.**" [Taxation West Key 43]…"**The Right to receive income or earnings is a right belonging to every person and realization and receipt of income is therefore not a 'privilege', that can be taxed.**" [Taxation West Key 933]-**Jack Cole Co. v. MacFarland**, 337 S.E. 2d 453, Tenn.

> "**The term 'excise tax' is synonymous with 'privilege tax**', and the two have been used interchangeably." **Foster & C. Co. v. Graham**, 154 Tenn. 412, 285 S.W. 570, 47 ALR 971. "Whether a tax is characterized in the statute imposing it, as a privilege tax or an excise tax is merely a choice of **synonymous** words. **An excise tax is a privilege tax.**" **Bank of Commerce & T. Co. v. Senter**, 149 Tenn. 569, 260 SW 144, **American Airways v. Wallace**, 57 F.2d, 877, 8880.

> "An excise is…a duty levied upon licenses to pursue certain trades or deal in certain commodities, upon **official privileges**, [i.e. a government job as an elected or appointed political official but NOT an occupation of common right] etc." **Black v. State**, 113 Wis. 205, 89 NW 522

> ***New Neighborhoods v. W. VA. Workers Comp. Fund****, 886 F.2d 714 (4th Cir. 1989):*
> ***"Excise tax is one not directly imposed upon persons or property."***
>
> ***Also:*** ***Sims v. Ahrens****, 167 Ark. 557, 271 SW 720;* ***Diefendorf v. Gallet****, 51 Idaho 619, 10 P2d 307;* ***Miles v. Department of Treasury****, 209 Ind 172, 199 NE 372, 97 ALR 1474, 101 ALR 1359, app. Dismd 298 U.S. 640, 80 Led 1372,56 S.Ct. 750*

We said earlier that the income tax is a tax on corporate profit. How come employees of the federal government can have their wages taxed? The reason is because the U.S. government is a federal corporation! That's right. In 1871, the District of Columbia became a Municipal Corporation, which also made them a federal corporation. "Employees" of that corporation then were in receipt of "profit" from the *federal corporation*! We have an article on our website that explains this conclusion completely below:

http://familyguardian.tzo.com/Subjects/Taxes/16Amend/SpecialLaw/16thAmendIRCIrrelevant.htm

Let's tie together what we have learned about taxability of "wages" with a couple of fictitious examples to make the application of this knowledge crystal clear in your mind:

EXAMPLE 1: Kelly Girl (federal) Corporation

Let's say the "person" in question is a *federal corporation* called "Kelley Girl", which is a "temp agency" that farms out its employees to third parties. In effect, they sell labor for profit. The third parties they sell the labor to reimburse them with "wages" for that labor. Kelly Girl, in turn, deducts the cost of the labor to pay their employees wages and benefits. ***The difference between what third parties pay them for the labor and what they pay their employees is corporate profit derived from wages, or "compensation for services" as described in 26 U.S.C. Section 61(a)(1)***. That corporate profit is taxable under the Internal Revenue Code.

EXAMPLE 2: You

Now let's say the "person" in question is a natural person and *not* a federal corporation. It is you! You sell your labor to third parties and receive "wages" or "compensation for personal services" in return. That money *does* fit the description of "gross income" defined in 26 U.S.C. section 61(a)(1) but it *does not* meet the definition of "income" as *corporate profit* since you are not a federal corporation (see Eisner v. Macomber, 252 U.S. 189 (1920). Because the income tax is an excise or privilege tax and you are not an entity in receipt of taxable federal privileges, and because you do not have "income", then you *cannot* have "gross income". On your tax return, you would fill in "0" for your taxable income on your return and pay NO TAX on that income.

Now isn't that interesting? Can you believe you have been fooled for so long? Why don't they teach this stuff in our public schools? Could it be because the government funds them and they don't want you knowing that you don't have to pay taxes on wages? We think so! That is why we advocate getting your children out of the public schools as quickly as possible and why we advocate school vouchers.

If we try to claim on our tax return that wages are not taxable and identify ourselves as a "natural person", as we did, the IRS came back with the following nonsense on their form letter 105C:

> *"The claim is based on your view that wages and salary don't constitute taxable income. The U.S. Tax Court and other federal courts have rejected this argument repeatedly and have held that wages and salary are taxable income reportable at the full amount received."*

Nonsense! Did you notice that:

1. They didn't cite any cases?
2. They didn't cite any laws?
3. They violated their own Internal Revenue Manual, which states that they cannot apply Tax Court cases or any cases other than the Supreme Court against more than one taxpayer?

> *"Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *Certain court cases lend more weight to a position than others.* ***A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.*** *Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*
> *[IRM, 4.10.7.2.9.8 (05/14/99)]*

So what kind of nonsense is this? This is an abuse of case law and a fraud if we ever saw one, but that is the kind of double-speak you can expect from the deceitful beast and monster we the people have allowed to evolve in the form of the IRS.

What do the *state* taxing authorities say about the taxability of wages? Here is what the California Franchise Tax Board (FTB) said in their response to a past *Affidavit Request for Refund* which contained as the last element a claim that wages are not taxable. The letter number was FTB 4619MEO (NEW 8-1999):

> *Compensation received in whatever form, including wages for services, constitutes taxable income (Lonsdale v. Commissioner, 661 F.2d 71 (5th Cir. 1981)).*

We then examined this case using VersusLaw (http://www.versuslaw.com). Here is what it said:

> *[12] As nearly as we can tell from their* ***pro se brief,*** *these arguments are two, or possibly three, in number.* ***The first category of contentions may be summarized as that the United States Constitution forbids taxation of compensation received for personal services. This is so, appellants first argue, because the exchange of services for money is a zero-sum transaction, the value of the wages being exactly that of the labor exchanged for them and hence containing no element of profit. This contention is meritless. The Constitution grants Congress power to tax "incomes, from whatever source derived ...." U.S.Const. amend. XVI. Exercising this power, Congress has defined income as including compensation for services. 26 U.S.C. §61(a)(1). Broadly speaking, that definition covers all "accessions to wealth." See Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 431, 75 S. Ct. 473, 477, 99 L. Ed. 483 (1955). This definition is clearly within the power to tax "incomes" granted by the sixteenth amendment.***

> *[13] Appellants next seem to argue, in reliance on Pollock v. Farmers Loan & Trust Co., 157 U.S. 429, 15 S. Ct. 673, 39 L. Ed. 759 (1895), and other authority, that, so understood, the income tax is a direct one that must be apportioned among the several states. U.S.Const. art. I, sec. 2.* ***This requirement was eliminated by the sixteenth amendment.***
>
> *[14] Finally, appellants argue that the seventh amendment to the Constitution entitles them to a jury trial in their case. That amendment, however, extends only to "suits at common law ...." This is not such a suit. Mathes v. Commissioner of Internal Revenue, 576 F.2d 70 (5th Cir. 1978).*
>
> *[15]* ***Appellants' contentions are stale ones, long settled against them. As such they are frivolous.*** *Bending over backwards, in indulgence of appellants' pro se status, we today forbear the sanctions of Rule 38, Fed.R.App.P. We publish this opinion as notice to future litigants that the continued advancing of these long-defunct arguments invites such sanctions, however.*
>
> *[16] AFFIRMED.*

If you want more information on ***Commissioner v. Glenashaw Glass Co.*** cited above, we refer you to sections 5.6.10.3 and 5.6.10.9.7, where we concluded that the case was shortsighted and ignored taxable sources in 26 U.S.C. Section 861 and 862. Did you notice that they cited the weakest possible case to establish the taxability of wages and did not repeat the foundation of the appellants arguments? The appellant was a pro se litigant (defending himself without the aid of a lawyer) who probably had a weak defense or explanation of the issues. This is a very common approach for the government: If the case is appealed, the appellate court will pick the person with the *weakest legal defense and poorest explanation of the issues, and make it into the equivalent of law without even examining all the issues in depth*. Then they will cite that case in the future ad infinitum without ever in the future fully examining the foundational issues. In effect, one hasty person who can't afford legal counsel destroys a good argument for the rest of the tax freedom community because of corrupt judges like judges Gee, Garza, and Tate who heard this case. Not only that, but look at all the people who this poor pro se was fighting against:

> *John F. Murray, Acting Asst. Atty. Gen., Richard Farber, Philip I. Brennan, Attys., Tax Div., U. S. Dept. of Justice, Alfred C. Bishop, Jr., Chief, John Menzel, Director, Tax Litigation, I. R. S., Washington, D.C., for respondent-appellee.*

Do you detect that this was a battle of wits with an unarmed man? Other interesting conclusions in the above ***Lonsdale*** cite are:

> *This requirement [of apportionment of direct taxes] was eliminated by the Sixteenth Amendment."*

This is an obvious fraud because the U.S. Supreme Court ruled in ***Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)*** that:

> *"..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. "*

This finding has never been overruled, and yet the ***Lonsdale*** case above completely ignored it. What kind of Alice in Wonderland fairytale illogic is this? If the Sixteenth Amendment conferred "no new powers of taxation" then how could it eliminate the apportionment requirement as cited above? That is why we say that more crime occurs in federal courtrooms

than anywhere else in the country! If you want more proof of this kind of judicial corruption, read section 6.6, where we talk about the "judicial conspiracy to protect the income tax". It will really open your eyes.

5.6.6 There is no Statute in I.R.C. Subtitles A and C that makes natural persons "liable" for payment of tax

Believe it or not, there is no section within the entire Internal Revenue Code, Subtitles A and C, which makes natural persons "liable" for the payment of the taxes imposed under section 1! That section "imposes" a tax but never makes anyone liable. Why? Because income taxes are *voluntary* and always have been. That is why an individual cannot be assessed by the IRS, cannot be penalized for nonpayment, and cannot legally have his property forcibly removed from him for nonpayment. Furthermore, subtitles A and C are the *only* taxes in the I.R.C. which don't make the subjects "liable". All other types of taxes in the Internal Revenue Code specifically do the following in the Internal Revenue Code:

1. Make the individual specifically "liable" for the payment of taxes and state "shall be paid". Examples:
   - 1.1. 26 U.S.C. §4374
   - 1.2. 26 U.S.C. §4401(c)
   - 1.3. 26 U.S.C. §5005
   - 1.4. 26 U.S.C. §5043
   - 1.5. 26 U.S.C. §5703
2. Require the individual to *keep records* about his liability. Examples of other types of taxes that do require records:
   - 2.1. 26 U.S.C. §4403
   - 2.2. 26 U.S.C. §5114
   - 2.3. 26 U.S.C. §5124
   - 2.4. 26 U.S.C. §5741
3. Subject him or her to *penalties for nonpayment*. Examples:
   - 3.1. 26 U.S.C. Subtitle F, Sections 6671 through 6715 address assessable penalties.
   - 3.2. There are no implementing regulations or entries in any of the parallel tables of authorities (see http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html) that map any of the penalties above to specific sections in 26 U.S.C. Subtitles A through C, nor are there any cross-references from Subtitles A through C that point to penalties in Subtitle F.

Without a legal liability, the IRS cannot institute collection, but they do so illegally anyway, and its up to you to learn how they do it so you can fight it!

A favorite trick of the IRS when the above fact is pointed out is to cite 26 CFR § 1.1-1 and show that the implementing regulation for the statute uses the phrase "are liablel to":

> *(b) Citizens or residents of the United States liable to tax.*
>
> *In general, **all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States.** Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.*

Did you get that? 26 U.S.C. §1 *didn't* use the word "liable" but the implementing regulation did, which is clearly illegal and violates the concept described in the ***Spreckles v. C.I.R.*** case below, which says:

> *"To the extent that* 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]*

What the Treasury did to try to illegally expand their jurisdiction, in a clear demonstration of conflict of interest and a violation of the Code of Ethics for Government employees we discussed in section 2.1, was create a *bogus liability* by writing an illegal regulation in 26 CFR § 1.1-1(b) to implement 26 U.S.C. §1 and use the word "liable" in the regulation! *Sneaky bastards*! Remember that the Secretary of the Treasury is authorized to write regulations that *interpret* and *implement* the Internal Revenue Code under 26 U.S.C. §7805, but the Secretary has *no delegated authority* to expand or enlarge or modify the original language or jurisdiction of the Internal Revenue Code section he is implementing and enforcing!

Therefore, 26 CFR § 1.1-1(b) *is a regulation that is null and void and fraudulent on its face* insofar as its imposition of an otherwise nonexistent liability for the payment of Subtitle A income taxes. If you were to investigate this matter further, I'd be willing to bet money that the Secretary of Treasury who approved this regulations was a lame duck and knew he was on the way out of office and probably his last official act was to approve this regulation. That was the kind of scam that got the Sixteenth Amendment passed by the lame duck Secretary of State Philander Knox, who perjured himself by saying that the Sixteenth Amendment had been passed.

5.6.7 Employment Withholding Taxes are Gifts!

That's right! If you purchase a copy of IRS Publication 6209, which shows you how to decode your Individual Master File (IMF), you will find out that employment withholding taxes that you pay after you fill out a W-4 with your employer are assigned to Tax Class 5, which is classified as "Estate and Gift Taxes". Income taxes, on the other hand, are listed as tax class 2. Even more interesting, is that Publication 6209 used to indicate what the various Tax Classes were, but when people found out that employment taxes were gifts and got outraged and litigated to get their money back, the IRS conveniently:

- Removed the identification of Tax Classes from publication 6209, making it difficult to impossible for the average individual to figure out or prove in court that employment taxes are gifts.
- Classified Publication 6209 on every page at the bottom as "For Official Use Only", which is a code word for "Don't Let This Get In The Hands of Those Taxpayer Bastards or They Will Sue us in Court!".

The IRS is now the only ones who have the "secret decoder ring" that can be used figure this deception out or use it as evidence in court, the scum bags! To undermine this conspiracy and reempower you with the concealed truth, we have prepared a listing of the Tax Classes below for your benefit:

Table 5-14: Tax Classes Used for Various IRS forms and filings

Tax or Topic	***Subtitle***	***Tax Class*** *(as used in your Individual Master File, or IMF)*
Income Taxes	A	2
Estate and Gift Taxes	B	5
Employment Taxes	C	1
Miscellaneous Excises	D	4
Alcohol, Tobacco, and Certain Other Excises	E	4
Procedure Administration	F	NA
Joint Committee on Taxation	G	NA
Financing Presidential Election Campaigns	H	NA
Trust Fund Code	I	NA

If you don't' believe this, examine Chapter 2 of IRS Publication 6209 for yourself, which is entitled "Tax Returns and Forms". We have included a summary of the main forms below for your benefit derived directly from that chapter, which is very instructive:

Table 5-15: Tax Classes Used for Various IRS forms and filings

IRS Form number	***Tax Class*** *(as used in your Individual Master File, or IMF)*
1040	2, 6
1040NR	2, 6
1040X	2
1099	5
940	8
941-M	1, 6
SS-4	0, 9
W-2	5
W-4	5
W-4E	5

Doesn't this kind of sly deception make you even a tiny bit mad? If income taxes really were mandatory, don't you think that the W-2 would be listed as tax class 2? Instead, the employment taxes you pay are gifts to the government and then, in their guilt, they try to hide this fact from you by obfuscating Publication 6209 and classifying it as "For Official Use Only" so it doesn't get into your hands! It is precisely this kind of deception that is the reason we like to say:

> *"The U.S. Government is so protective of the truth about income taxes that they have to surround it with a bodyguard of lies." Steadman Jackson*

Incidentally, if you want to get a copy of IRS Publication 6209, the IRS won't give it to you. You have to obtain it from the following:

All About Freedom website

http://www.allaboutfreedom.net/Products_IRS.html

5.6.8 The Deficiency Notices the IRS Sends To Individuals are Actually Intended for Businesses!

The IRS' 6209 Manual describes how to decode both your IRS Individual Master File (IMF) as well as the notices sent out by the IRS. You can order an electronic version of this manual from the web location below:

http://www.allaboutfreedom.net/Products_IRS.html

Chapter 9, section .01, on page 9-1 of our version of the 6209 Manual is entitled "Notices and Notice Codes" indicates the following:

> *Computer generated notices and letters of inquiry are mailed to taxpayers in connection with tax returns for BMF, IMF, and IRAF. Computer paragraph (CP) numbers (3-digit number for BMF AND IRAF, 2-digit number for IMF) are located in the upper left corner of the notices and letters.*

By way of explanation, BMF means "Business Master File" and "IMF" means Individual Master File. *Businesses should therefore never get any CP notice with a two digit code and Individuals should never get any CP notice with a three digit*

code, and if this requirement is violated, then this is a strong indication of one of the two likely problems, in descending order of likelihood:

1. Your IMF has been deliberately falsified by the dishonest IRS agent or agents who have been handling your returns in order to create a fraudulent tax liability by making you into a business rather than an individual. The typoe of business they make you into is usually a *federal corporation*.
2. There has been an accidental data entry error.

When an individual has either not filed a return or has not paid taxes or penalties that the IRS says they owe, they will typically receive a CP deficiency notice from the IRS with a three digit code. For instance, a series of four letters, CP-501 through CP-504 are sent out prior to initiating collection activity against an alleged taxpayer. Notice that the number part of the form letter is a three digit code, which the above citation from the IRS 6209 manual says is for *businesses* and not *individuals*. Individuals should never receive such notices because we all know that the income tax is voluntary and cannot apply to individuals since there is no statute creating a liability in all of Subtitle A of the I.R.C. The only reason it applies to businesses is because the businesses are associated with taxes found in Title 27, which is for the Bureau of Alcohol, Tobacco, and Firearms. The IRS and the BATF share the same computer system and at one time were part of the same agency! BATF taxes are indeed mandatory and can be enforced with penalties and seizures and collection activity. Even worse, the IRS itself, in the Treasury Organization Chart at the below web address from the Department of the Treasury, is clearly shown as NOT being an enforcement agency, since it does *not* fall under the Under Secretary for Enforcement!

http://www.ustreas.gov/org/treasorg.pdf

There are two types of commissions IRS employees can get: Enforcement and Nonenforcement (also called Administrative). The type of commission they get is clearly shown on their Pocket Commission. See the following address for more information about pocket commissions:

http://www.irs.gov/bus_info/tax_pro/irm-part/part01/31791.html

Only IRS employees who have Enforcement Pocket Commissions can institute enforcement activities, including assessment, collection, liens, levies, and summons. But guess what: ***none*** of the IRS employees who institute enforcement actions on individuals have enforcement commissions! They just pretend like they do and hope you won't notice or ask about their Pocket Commissions—it's a big bluff! That explains statements like the following

> *"In a recent conversation with an official at the Internal Revenue Service, I was amazed when he told me that 'If the taxpayers of this country ever discover that the IRS operates on 90% bluff the entire system will collapse' ".*
>
> ***- Henry Bellmon,*** *Senator (1969)*

We have a sample FOIA request in section 15.11.12 of this book that allows you to find out what kind of commission they have if you want to find out.

What typically happens is that when an person sends in their first 1040 tax return assessing themselves with a liability they really don't have and can't have under law, the IRS agent processing the return has to fabricate a liability. Otherwise, he would have to send your return and your money back and politely tell you that you aren't liable for tax. What agent or person from the government would be honest enough to do that?

The only way the corrupt IRS agent can fabricate such a liability is to lie to their AIMS computer by telling it that the person indicated on the tax return is a *business* rather than an *individual*. Beyond that point and at any time in the future, that person is erroneously presumed by the IRS computers to be a *business* who is liable to pay tax and file returns. No kidding! The only way you can get the IRS off your back after you erroneously assess yourself with a liability is to point out to them that you are not a business and that you:

- Want they maintain on you expunged and amended to reflect your correct status as an individual. You will need to provide them with a notarized Affidavit in order to do this.

- Want them to provide proof that you are a business if they continue to insist that you are. You can refute their evidence by providing them with a copy of your birth certificate.

Doing the above should hopefully stop the threatening collection and/or deficiency notices for taxes you were never liable for.

5.6.9 The Irwin Schiff Position

There are many different approaches to rid yourself of income taxes illegally enforced by the IRS. The most popular approach by far as of the writing of this book is the Irwin Schiff approach. Mr. Schiff has been in the de-taxing business since 1985, which is longer than most other people in the business. During that time, he has perfected his approach to make it extremely effective. The IRS hates him for it and if they find out that they are dealing with a person who has been using his method, they will avoid audits and due process hearings like the plague! We'll give a summary of his approach in this section to show you how what we have learned elsewhere in this book applies to the practical aspects of untaxing yourself. We have attended his seminars and are impressed with the thoroughness of his approach and highly recommend it. You are also encouraged to visit his website at:

http://paynoincometax.com

The Irwin Schiff approach relies on the following basic elements:

Table 5-16: Summary of the Irwin Schiff Position

#	*Element*	*Description*
1. JURISDICITON AND AUTHORITY		
1.1	The IRS has no delegated authority to do anything! The 1954 code removed all references to the Commissioner of the IRS from the 1939 code and replaced these references with the Secretary of the Treasury.	Read the code yourself or search it electronically online at http://www4.law.cornell.edu/uscode/. You will not find a single reference anywhere giving the IRS authority to do *anything*. There are also NO delegation of authority orders from the Secretary of the Treasury to the IRS delegating that authority.
1.2	Most IRS agents are ignorant of the law. They are just clerks with no delegated authority and: ***"Clerks are jerks!"*** Holding a Internal Revenue Code book in front of an IRS agent is like holding a cross in front of a vampire!	IRS agents are taught about procedures and not law. If they knew the law and that what they were doing was illegal, they would quit in droves because they were being asked to do things that they knew were illegal and unethical.
2. LIABILITY		
2.1	We don't file tax returns, we file "confessions". Since the constitution says that we can't be compelled to testify against ourself under the Fifth Amendment, then we can't be compelled to file tax returns or assess ourself.	Justice Hugo Black declared in ***U.S. v. Kahriger***, 345 U.S. 22 (1953) that, "The United States has a system of taxation by *confession*." (Italics added). Since the courts are corrupt, however, Irwin recommends filing zero returns to avoid "Willful Failure to File" convictions under 26 U.S.C. 7203. Doing so ensures that the clock starts on the statute of limitations so they can't go back indefinitely for taxes not paid (there is no statute of limitations for back taxes if you don't file).
2.2	"Income" means Corporate Profit according to the Supreme Court	Congress cannot either define statutorily or change the definition of "income". The Constitution is the only thing that can define it. The Supreme Court has ruled repeatedly that the income tax is an indirect

		excise tax on *corporate profits*. See section 5.6.3 earlier for an exhaustive treatment of this subject.
2.3	We have no taxable "income" as defined by the Supreme Court.	Because natural persons or biological people can't have a "profit" and they aren't corporations, then they have no taxable income. Look at 26 U.S.C. §61 and you will find that it defines "gross income" without defining "income". You can't have "gross income" until you have "income".
2.4	Without any taxable income, we are NOT LIABLE for payment of income taxes.	You only pay tax if you have taxable income.
2.5	Most state income taxes require a federal liability before there is a state liability. Therefore, if you file a federal return saying you have zero income, then you would be committing perjury to not do the same thing on your state return.	California is one example of this, but it also applies in New York and Texas and other states.
2.6	Payment of income taxes is strictly voluntary..	See ***Flora v. U.S., 362 U.S. 145 (1960)*** for the Supreme Court's opinion on the voluntary nature of income taxes. The privacy act notice in the 1040 booklet doesn't say we are liable. It says "you must file a return or statement for any tax you are liable for." But there is NO LAW that makes you liable! The government tries to confuse people on this issue by throwing in the word "compliance" after the word "voluntary" to keep people in cognitive dissonance so they think they have to comply, but in fact, they aren't liable for any tax. If you look in the index for the Internal Revenue Code, under the subject of "Liability for tax", you will find NO MENTION of income taxes!
2.7	You aren't obligated to incriminate yourself	The 1040 Privacy Act Notice also tries to confuse the government's ability to ask for information with your legal liability to provide it. Under the Fifth Amendment, you cannot be forced to testify against yourself, nor to answer any questions at a summons or IRS examination. Even the IRS' own Handbook for Special Agents says you don't have to provide ANYTHING, including books or records, about yourself.
2.8	There *IS NO* law that makes us liable for the payment of income taxes.	Ask the IRS to show you the law! Show them the code book and demand that they show you the law!
2.9	The income tax system is based on *self assessment.* The IRS CANNOT assess you. Only YOU can assess yourself.	No IRS agent has a delegation order that allows them to prepare a Form 1040 for you because income taxes are voluntary. The Internal Revenue Manual (IRM) does not allow IRS agents to prepare form 1040's for persons either. See Section 5500.
2.10	Assessing yourself for having ZERO INCOME means you don't have to pay income taxes, since the IRS can't assess you.	You aren't liable unless you have taxable income.
2.11	The courts and the legal profession are corrupt and we should try to stay out of them. Don't go to a lawyer if you want the truth about income taxes.	Irwin Schiff's methods help you stay out of court.
3. EXAMINATIONS, RECORDS, AND ASSESSMENTS		
3.1	The Internal Revenue Code says the only person other than the person filing	See 26 U.S.C. Section 6201(a)(1) for further details.

	the return who is authorized to do assessments is the Secretary of the Treasury, not the IRS, and he is NOT authorized to do assessments on other than stamp taxes for cigarettes and alcohol.	
3.2	Since we have never been assessed as having anything other than zero income, then we can't be expected to pay any tax.	The IRS likes to try to drag people into tax court so the corrupt pseudo-judges there can extort your money. He has proven techniques to win in Tax Court as well.
3.3	The IRS must issue a "Notice and Demand" before it can attempt collection activity, including liens, levies, and seizures and it *never* issues a valid one.	See 26 CFR § 301.6303-1. This regulation, however, does not have the force of law because it is not a legislative regulation and does not point to a statute for its authority. It exceeds the delegated authority of the IRS to issue such a notice and demand. See also item 3.4 below.
3.4	There is no law requiring us to keep records of income or expenses under Subtitles A through C income taxes. 26 U.S.C. Section 6001 says the Secretary of the Treasury must personally notify us of the requirement to keep records and absent a regulation requiring records, we aren't liable to do this.	26 U.S.C. §6001 says: *"Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title."* There are not laws mentioning records under Subtitles A through C, even though the other subtitles have such requirements. See 26 U.S.C. Sections 4403, 5114, 5124, and 5741 and their implementing regulations for examples.
4. COLLECTIONS AND DISTRAINT		
4.1	The IRS must issue a "Notice and Demand" before it can attempt collection activity, including liens, levies, and seizures and it *never* issues a valid one.	See 26 CFR § 301.6303-1. This regulation, however, does not have the force of law because it is not a legislative regulation and does not point to a statute for its authority. It exceeds the authority of the delegated authority of the IRS to issue such a notice and demand. See also item 3.4 below.
4.2	Collection activity requires a proper delegation order by the agent administering the code, and NO agents have enforcement or collection authority as indicated by they pocket commission.	Agents must have enforcement ability and an "E" suffix on their badge in order to institute collections. See Internal Revenue Manual (IRM), [1.16.4]3.1 through [1.16.4] 3.2.
4.3	We should at all times question authority of everyone we are dealing with at the IRS by insisting on seeing their pocket commission and their Delegation Orders.	IRS agents routinely try to exceed their delegated authority in order to maximize their "productivity" (the amount of extorted assets) so that they can get raises and promotions. Read the Supreme Court case of ***Federal Crop Insurance v. Merrill***, 332 U.S. 380-388 for the following quote: *"Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may be unaware of the limitations upon his authority."*
4.4	There are three types of regulations: legislative, interpretive, and procedural. Only legislative regulations have the force of law. Only those regulations that have a citation of a specific statute at the	Examples of regulations that are NOT legislative because they do NOT refer to a section of the Internal Revenue Code in the notes are: 26 CFR §301.6303-1 (Notice and Demand) 26 CFR §301.6331-1 (Levy and distraint) These are bogus or bootleg regulations that you must remind everyone

	bottom are legislative and have the force of law. Most regulations that purport to try to enforce Subtitle A income taxes are not legislative regulations and do not have the force of law as indicted by the absence of a statutory citation at the bottom	do not have the force of law!
4.5	The Parallel Table of Authorities in the 26 CFR indicates that the only regulations that authorize distraint are contained in 27 U.S.C. having to do with Alcohol, Tobacco, and Firearms. There are NO regulations for any of the enforcement provisions of Subtitle F that point anywhere in Subtitles A through C, for instance.	Look at the Parallel Table of Authorities for yourself at: http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

Because we describe most of the above issues he raises elsewhere in this book and even in this chapter, we won't repeat them here to keep the size of the book to a minimum. We did, however, want to summarize his position very succinctly to give you a flavor for how the most popular untaxing advocate in the country approaches the problem. Based on the above approaches, Mr. Schiff recommends to his thousands of students the annual filing of a "zero return" on an IRS form 1040. A zero return is one where everything on the return is zero except for the tax paid, and therefore, by filing a return you are requesting everything back. Even if you have a nonzero number reported on the W-2's from your employer, the "income" is zero because the Supreme Court defines "income" as corporate profit. He describes his "zero return" approach in an excellent book he publishes entitled *The Federal Mafia: How the Government Illegally Imposes and Unlawfully Collects Income Taxes*, ISBN 0-930374-09-6 available from Freedom Books, Las Vegas, NV 89104; 702-385-6920 for $38. Mr. Schiff's tangles with the federal government have been numerous over the years, and his Mafia book is a storyteller's perspective on his odyssey, which is quite interesting.

Mr. Schiff publishes an annual product called his "Schiff Reports" for $100 per year which is a series of audio cassettes that contain excerpts from his lectures and seminars and which address selected topics. Each new Schiff report incorporates the latest updates to his procedures based on lessons learned to that point. These reports are where you learn about his processes and the practical aspects of how to deal with the IRS. He does not discuss processes in any of his books because he says they are too dynamic. He therefore does not document or publish a description of his processes and procedures as we attempt to do in Chapter 8 of this book. Everything is in audio format and is not indexed, which means that it may be more difficult than necessary to find the specific help that you need for your given situation. Nevertheless, his materials are very good and we recommend them highly.

The weak point of Mr. Schiff's approach is that he thinks citizenship is irrelevant and unimportant, so he says filing an IRS form 1040 filled with zeros is fine. We also advocate zero income tax returns, but we use the IRS form 1040NR, which reflects our proper status as nonresident aliens to the foreign jurisdiction known as the Internal Revenue Code. We believe that the reason Mr. Schiff has gotten into so much trouble in the courts over the years most likely is because of what we perceive are the following weaknesses in his position which he doesn't seem inclined to want to fix:

- Erroneously thinks he is a "U.S. citizen", which needlessly gives federal courts jurisdiction they wouldn't otherwise have over him.
- Files form 1040, indicating that he lives inside the federal zone, which means he has no Constitutional rights. At the same time, he wonders why the federal courts disregard his Constitutional rights.
- Doesn't realize that he is a "nontaxayer" as we discussed earlier in section 5.6.3. He therefore erroneously uses the Internal Revenue Code for his basis of claims against the U.S. government, never realizing that he should instead not be using any part of the IRC in his legal defense other than to prove he is a "nontaxpayer" and file a due process violation suit under 28 U.S.C. §1331 and 28 U.S.C. §1332, claiming "diversity of citizenship". Instead, he never claims diversity of citizenship, creating a presumption by the court that he is a "U.S. citizen", which means he has no Constitutional rights. The lack of Constitutional rights then forms the basis for why the

court can disregard his rights, so he just sits there and goes in circles, runs up legal fees unnecessarily, and litigates the wrong issues.

Other than the above defects, we believe that Mr. Schiff's ideas summarized above are right on the money. We follow his zero income tax return idea but use the 1040NR form instead, and use our own letter instead of the one he sells on CD-ROM to his students. Our letter remedies the weaknesses in his position above by emphasizing nonresident alien status, rescission of signatures, and expatriation.

While at his seminar on October 7, 2001, we asked Mr. Schiff what he had to say about various other untaxing experts and the various positions mentioned in this book and this chapter that they advocate. We have summarized his answers in the list below for your benefit.

DISCLAIMER: The views expressed below are not those of the author, but those imputed to Mr. Irwin Schiff. We are simply reporting what we heard for the purpose of expanding your education about taxes.

1. Avoid Bill Conklin. He is a fraud. All he wants is your money but he can't do anything for you. He'll charge you $700 and then tell you that you should pay your taxes in full and ask for a refund, which you will never get. He advises not filing W-4 Exempts and it's perfectly legal and proper to do so.

2. Otto Skinner is way off base. His books are ridiculous nonsense. He spends more time criticizing other untaxing experts than he spends helping his own people with his flawed arguments.

3. The 861 argument advocated by Larken Rose and NITE is myopic and doesn't look at the big picture. It's way too complicated for the average person to deal with and doesn't focus on the real issues of the voluntary nature of income taxes and the limited authority and jurisdiction of the IRS.

4. Changing your citizenship, becoming a nonresident alien, or expatriating to avoid tax are unnecessary, because the law very clearly says Citizens aren't liable for income taxes. The problem is not our citizenship or the tax laws. The tax laws are fine and they clearly say we aren't liable for income taxes. The problem is the corruption in the federal courts and the legal profession.

5. The biggest collection of criminals in the country sits on the federal bench. You are a fool if you trust a lawyer to protect your rights when it comes to income taxes. Most lawyers are incompetent wimps who are only interested in their own pocketbook. And after they get tired of practicing law, they promote themselves to the next highest level of incompetence consistent with the Peter Principle and become corrupt federal judges!

5.6.10 The 861 "Source" Position

The "861 source" argument is a simplistic but good argument which has been used successfully by those persons who want to be known as "U.S.** citizens" instead of their proper status as "U.S. nationals". This argument is a weaker position than the nonresident alien position and is a subset of the nonresident alien position. It relies on 26 U.S.C. §861 and implementing regulations to show that income from "within the United States" is not subject to tax. The fatal flaw of the 861 argument is that the people who use it don't know the definition of the word "United States" found in 26 U.S.C. §7701 or in section 4.6 and get trapped by their relative ignorance into committing fraud on their tax returns by claiming that they are "U.S.** citizens and residents"". This, in turn, needlessly subjects them to the jurisdiction of the federal courts, which then become the worst abusers of their civil rights because constitutional limits don't apply to federal territories over which the U.S. is sovereign as per ***Downes v. Bidwell***, 182 U.S. 244 (1901).

The above considerations are why we said in Chapter 4 and section 5.3 earlier that you are making a BIG mistake to claim you are a "U.S.** citizen", because most people aren't federal citizens by birth or naturalization. We know based on the definition of "United States" in 26 U.S.C. §7701 that Natural born persons born in the 50 states are born as nonresident aliens with respect to federal income tax jurisdiction and "U.S.** citizenship". They then deceive their own government into thinking that they are federal citizens by getting a Social Security Number. When they reach age 18, they complete the

masochistic process of becoming a "U.S.** citizen" by filing their first IRS form 1040, which is explained in 26 CFR § 1.871-10 as an "Election to treat their income as effectively connected with a trade or business in the United States". This process is also described in IRS Publication 54 as "making a choice". In effect, however, they are telling their government that they live in the District of Columbia or other federal territory or enclave within the "federal zone", hold public office (see the definition of "trade or business" in section 3.11.1.21), and therefore are in receipt of government privileges and are accordingly liable for paying the communistic graduated income tax. This whole process is sheer fraud that anyone with minimal legal training and a little time surfing the web could easily figure out for themselves.

The 861 position is for those who don't have the courage or the legal knowledge to claim that they are nonresident aliens. It is a weaker position that involves more litigation and is more difficult to deal with at the administrative level because it deals with laws that most revenue agents aren't aware of and have never read for themselves. People like Lynne Meredith (http://www.freedommall.com, author of *Vultures in Eagles Clothing*) claim that the 861 argument isn't even relevant unless and until we declare our proper status as nonresident aliens, and we agree with her! Why? Because as U.S.** citizens we have no constitutional rights, and filing the 1040 form amounts to an admission that we live inside the federal zone and are subject to the sovereignty of the U.S. government. Without rights or Constitutional protections, are taxable sources even relevant? Definitely not!

5.6.10.1 The Basics of the Federal Law

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

> *"Sec. 7805. Rules and regulations*
> *(a) Authorization - ... the Secretary [of the Treasury] shall prescribe all needful rules and regulations for the enforcement of this title [Title 26]..." [26 U.S.C. § 7805]*

(The citation "26 U.S.C. § 7805" refers to Section 7805 of the *statutes* of Title 26, with "USC" meaning "United States Code." The symbol "§" means "section." Citations of *regulations* are similar, but contain "CFR" instead, meaning "Code of Federal Regulations.")

Section 1 of the Title 26 statutes imposes the "income tax" in five different categories (unmarried people, married people filing jointly, etc.). In each case, the wording reads "*there is hereby imposed on the **taxable income** of...*" The law generally defines "*taxable income*" in the following section of the statutes:

> *"Sec. 63. **Taxable income defined***
> *(a) In general - ...the term **"taxable income"** means **gross income** minus the deductions allowed by this chapter..." [26 U.S.C. § 63]*

In other words, when someone determines his "*gross income*," and then subtracts all allowable deductions, the remainder is "*taxable income*." (So for income to be "*taxable income*," it must first be "*gross income*.") The following section of the statutes gives a general definition of "*gross income*":

> *"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]

This is the point at which many tax "experts" err, either by assuming that the "items" of income listed constitute "sources" of income, or by assuming that "*from whatever source derived*" means that all of the "items" of income listed, *regardless of where they come from*, are subject to the "income tax." Both of these assumptions are provably incorrect. (The difference and relationship between "items" and "sources" will be explained below.)

5.6.10.2 English vs. Legalese

In our system of written law, Congress may use a term to mean almost anything, as long as the law itself defines that meaning. When the written law explains the meaning of a term used in the law, standard English usage becomes irrelevant. For example, by the definition in 26 U.S.C. § 7701(a)(1), the term "*person*" includes estates, companies and corporations. While no one would call Wallmart a "person" in everyday conversation, Walmart is a "person" under federal tax law. The legal use of a term is often significantly different from basic English, and therefore reading one section of the law alone can be very misleading.

As a good example, 26 U.S.C. §5841 states that "[t]*he Secretary* [of the Treasury] *shall maintain a central registry of* ***all firearms*** *in the United States which are not in the possession or under the control of the United States*." The law has a far more limited application than this section by itself would seem to imply. In 26 U.S.C. §5845(a) it is made clear that the term "*firearm*" in these sections does ***not*** include the majority of rifles and handguns (while the term "firearm" in basic English obviously would), but *does* include poison gas, silencers and land mines. The average American reading the law will naturally tend to assume that he already knows what the words in the law mean, and may have difficulty accepting that the *legal* meaning of the words used in the law may bear little or no resemblance to the meaning that those words have in common English. For example, reading the phrase "*all firearms*" in Section 5841 in a way that *excludes* most rifles and handguns is contrary to instinctive reading comprehension. (But any lawyer reviewing Sections 5841 and 5845 would confirm that such a reading would be absolutely correct.)

Reading one section of the law without being aware of the legal definitions of the words being used can give an entirely incorrect impression about the application of the law.

As demonstrated, sometimes the apparent meaning of a simple phrase in the law is very different from the legal meaning. The "income tax" is imposed on "*income from whatever* ***source*** *derived*." If the law did not explain what constitutes "***sources*** *of income*," then the law would be interpreted using basic English. However, the law ***does*** explain what the term means, and therefore standard English usage is irrelevant.

5.6.10.3 Sources of Income

Recall in our previous discussion that in the case of ***United States v. Burke,*** 504 U.S. 229, 119 L Ed 2d 34, 112 S Ct. (1867), the Supreme Court ruled that "gross income" that was to be taxed had to come from a source. Why? Because otherwise the income tax laws would be so broad as to tax EVERYONE in the world! *Federal government income taxes are imposed on government sources with specific geographical boundaries, and not the income itself, per United States v. Burke*. Since the income tax is an indirect excise tax as ruled by the U.S. Supreme Court, then the income is just a way to compute the amount of tax but the tax itself is on some taxable activity within a geographic government jurisdiction. Clearly, there has to be some section of the Internal Revenue Code that ties the income taxes we pay to some geographical boundary and taxable activity. This section deals with that subject.

There is often a lot of confusion in people's mind over the significance of the word "source" that we'd like to clear up before we go on. Therefore we'd like to refine the use of the term before continuing on with an explanation of specific "sources". Merriam Webster Dictionary of Law defines "source" as follows:

> ***source***
> ***1:*** *a point of origin*
> *Example: the* ***source*** *of the conflict*

There are actually two uses of the word "source" in the Internal Revenue Code. "Source" is used to describe a *TAX source* (a source for *government* revenue) in 26 U.S.C. §861, the 16th Amendment, and the IRS regulations (26 CFR § 1.861) we discuss subsequently. Revenue or tax "sources" for the *government* are always tied to a territorial jurisdiction and the occurrence of a specific taxable event or situation. The occurrence of a taxable event within the territorial jurisdiction of the taxing authority creates a situs (or situation or right) for taxation. This is especially true of excise taxes, which occur on the happening of a specific *event, and we already know based on our earlier discussion that the income tax is indeed an indirect excise tax*. For instance, there is a federal excise tax on gasoline. The event of buying gasoline by consumers within the geographical boundaries of the United States of America is an occasion for paying that particular federal excise tax. So if we buy gas in California, for instance, then we have created a situs for imposing the tax. If the event occurs *outside* of the geographical boundaries of the U.S.A. or doesn't involve the buying of gasoline, then the tax can't be enforced and no one is liable and there is therefore no *situs* for taxation:

> ***situs****.(Black's Law Dictionary, Sixth Edition, page 1387) Lat. Situation; location; e.g. location or place of crime or business. Site; position; the place where a thing is considered, for example, with reference to jurisdiction over it, or the right or power to tax it. It imports fixedness of location. Situs of property, for tax purposes, is determined by whether the taxing state has sufficient contact with the personal property sought to be taxed to justify in fairness the particular tax. Town of Cady v. Alexander Const. Co., 12 Wis.2d 236, 107 N.W.2d 267, 270.*

"Source" is also used to describe an *INCOME source* for *individuals* or "*persons*" ((as defined in 26 U.S.C. 7701(a)(1))) in Chapter 24 of the I.R.C, which is entitled "CHAPTER 24 - COLLECTION OF INCOME TAX AT ***SOURCE*** ON WAGES " and section 3402 of the I.R.C. These sections deal with *withholding*, but the withholding is occurring on the *person's income "source" as defined under 26 U.S.C. §61*. This "source" of income for the ***person*** then becomes a "*source*" of tax revenue from the ***government*** upon receipt by the government of taxes paid by the person. In this case, the withholding on wages occurs as an imputed "excise tax" based on the "event" or situs of a citizen receiving income from their employer within the territorial jurisdiction of the "United States" as defined in 26 U.S.C. §7701(a)(9). Note, however, that indirect excise taxes that are Constitutional always occur on *business transactions and businesses*. Excise taxes are referred to in the Constitution as ***indirect taxes***, as we learned in our discussion of the Supreme Court case of ***Pacific Ins. Co. v. Soule***, 74 U.S. 433 (1868) in section 6.4.2 and they always fall on *consumers* of the product made by the business, and because the choice to buy the product is *voluntary*, the payment of the tax is *voluntary*. If you want to avoid the tax, then you don't have to buy the product!

Valid federal excise taxes CANNOT fall *directly* on natural persons or citizens because then they become ***direct taxes.*** Unapportioned direct taxes on citizens violate Article 1, Section 9, Clause 4 of the U.S. Constitution, which states "No Capitiation or other direct tax shall be laid unless in proportion to the Census or Enumeration herein before directed to be taken." Unapportioned direct taxes also violate Article 1, Section 2, Clause 3 of the Constitution. In this case, the income taxes on wages are deducted and paid by the employer (the business) with the consent or permission of the employee (W-4), but in actuality they also REDUCE the income of the *recipient* and the taxes must be accounted for and a return prepared by the *citizen/recipient*, not the *business*, which makes them into a direct tax that is clearly unconstitutional. It is very important to understand this distinction. A good way to think about this is if a tax reduces the income of a citizen from what they otherwise would have received and if it is involuntary and not discretionary, then it's a *direct tax*. This issue was settled in the Supreme Court Case of ***Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895)***.

One of the devious tricks that both the IRS and the state taxing authorities like to pull is to try to confuse the definition of "source" for the layman, so that proponents of the 861 position cannot use their arguments successfully. The most famous case they will cite in this dishonest, devious, and underhanded obfuscation is the case of ***Commissioner v. Glenshaw Glass Company***, 348 U.S. 426, 429 (1955). Here is the portion of the case they will try to cite, which appears in IRS Notice 2001-40:

> *"Congress applied no limitations as to the source of taxable receipts . . ."*

They will then say that the source of income doesn't matter, and that all sources are taxable, as if to say that there is no reason to even have 26 U.S.C. Sections 861 through 865 at all and that everyone in the world is subject to U.S. federal income taxes because all *government* sources are taxable *everywhere*, including China!. This is an absurd conclusion to reach, but that is what you have to believe if you believe their specious arguments. In effect, what they are trying to do is dishonestly remove the territorial jurisdiction requirement from the *situs* to impose the tax. When you read double-speak like this, you need to be very clear what type of "source" they are talking about. Taxable "*sources" of income for persons* are found in 26 U.S.C. §61, and taxable "*sources" of revenue for the government* with a situs requirement are found in 26 U.S.C. §861 and 862, and what the Supreme Court is talking about in the ***Glenshaw*** case are taxable sources of income for *persons* and the ruling simply expands I.R.C. section 61, but does NOT invalidate or render ineffective any part of the *situs* to tax established in 26 U.S.C. Sections 861 through 865 and the supporting regulations. We talk about this devious deceit and show you the error in the governments deception later in section 5.6.10.9.7. We strongly encourage you to read that section if you are going to use the 861 position, because we can virtually guarantee that the deceitful feds or your state government will try to bring up this case when you try to use 861 in an effort to confuse and dissuade you from using the 861 position, which stands up quite well against this U.S. Supreme Court case.

With that out of the way, we'll spend the remainder of this section talking about *government* "sources" and situs of income, so let's review: the "income tax" is imposed on "*taxable income*," which means "*gross income*" minus deductions. "*Gross income*" is defined in 26 U.S.C. § 61 as "*all income from whatever **source** derived*." The phrase "*from whatever **source** derived*" may initially appear all-encompassing, but for the specifics about "*income from **sources***," the reader of the law is repeatedly referred to Section **861** and following (of the statutes) and the related regulations. For example, in the full version of Title 26 (with all notes and amendments) which appears on Congress' own web site, Section 61 *itself* has the following cross-reference:

> *"**Income from sources** -*
> *__Within__ the United States, see **section 861** of this title.*
> *Without the United States, see section 862 of this title."*

So the section which generally defines "gross income" specifically refers to 26 U.S.C. § 861 regarding income from "sources" within the United States** (the federal zone). A similar reference is also found in the indexes of the United States Code, which (although they vary somewhat in the exact wording) have entries such as:

> *"Income tax*
> *__Sources__ of income*
> *__Determination__, 26 § __861__ et seq.*
> *__Within__ the U.S., 26 § __861__"*

Again, income from "sources" within the United States** (the federal zone) is specifically dealt with by Section 861, and "*determination*" of sources of income is also dealt with by Section 861 and the following sections. In addition, Sections 79, 105, 410, 414 and 505 each identify Section **861** as the section which determines what constitutes "*income from **sources** within the United States*," and Section 306 even uses the phrase "*part I of subchapter N (sec. **861** and following, relating to **determination of sources of income**)*."

As shown, 26 U.S.C. § 861 and following (which make up Part I of Subchapter N of the Code) are very relevant to determining what is considered a "source of income," and Section 861 in particular deals with income from "sources" ***within*** the United States** (the federal zone). Not surprisingly, Section 861 is entitled "*Income from **sources** within the United States*," and the first two subsections of Section 861 are entitled "***Gross income** from sources within the United States*" and "***Taxable income** from sources within the United States*." Section 861 is also the first section of Subchapter N of the Code, which is entitled "*Tax based on **income from sources** within or without the United States*." Clearly this is relevant to a tax on "***income** from whatever **source** derived*."

As mentioned before, the *statutes* passed by Congress are interpreted and implemented by *regulations* published in the Code of Federal Regulations ("CFR") by the Secretary of the Treasury. The Index of the CFR, under "*Income taxes*," has an entry that reads "*Income from **sources** inside or outside U.S., **determination of sources of income**, 26 CFR §1 (**1.861-1**--1.864-8T)*." This is the *only* entry in the Index relating to income from sources *within* the United States** (the federal zone), and the regulations listed (26 CFR § 1.861-1 and following) correspond to Section 861 of the *statutes*. (The "*26*"

refers to Title 26, the "*1*" after "*CFR*" refers to Part 1 of the regulations ("Income Taxes"), and the "*.861*" refers to Section 861 of the statutes.) These regulations fall under the heading "***Determination of sources of income***." The following is how these regulations begin:

> *"Sec. 1.861-1 Income from sources within the United States.*
> *(a) Categories of income. 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." [26 CFR § 1.861-1]*

The meaning of this is unmistakable. The "income tax" is imposed on "*income from whatever **source** derived*," and Section 861 and following, and the related regulations, determine what is considered a "***source***" of income "*for purposes of the income tax*." The first sentence of the regulations under 26 U.S.C. § 861 has stated this since 1954, when Section 861 first came into existence. Note that these define "***the***" sources of income subject to the tax, meaning ***there are no others***. Therefore, the meaning of "*income from whatever **source** derived*" (the definition of "*gross income*" in Section 61) ***is*** limited by Section 861 (and following sections) and the related regulations. The meaning of the phrase "***whatever*** *source*" depends completely on the meaning of the word "***source***." The word "*whatever*" does not expand the meaning of "*source*" any more than the phrase "***all*** *firearms*" (in the example above) expands the legal meaning of the word "*firearm*."

The above section of regulations also refutes the common but incorrect position that the "*items*" of income listed in Section 61 are "*sources*," since Section 61 is obviously **not** the section which determines the "*sources*" of income for purposes of the income tax.

(There is a chart at the end of this report showing the outline of Part I of Subchapter N and related regulations, and showing many of the citations used in this report.)

While the significance of Section 861 and the related regulations may be obvious, the point needs to be thoroughly proven, since most tax professionals concede that Section 861 and its regulations are ***not*** about the income of United States citizens living and working exclusively within the 50 states of the United States. (Below it will be shown ***why*** it is so significant that "*section 861 and following... and the regulations thereunder, determine the sources of income for purposes of the income tax*."). The IRS's own publications clarify the issue of "source" for us. In IRS Publication 54 (for the year 2000, on page 4), we read the following:

> *Source of Earned Income*
>
> *The source of your earned income is the place where you perform the services for which you received the income. Foreign earned income is income you receive for performing personal services in a foreign country. Where or how you are paid has no effect on the source of the income. For example, income you receive for work done in France is income from a foreign source even if the income is paid directly to your bank ac-count in the United States and your employer is located in New York City.*
>
> *If you receive a specific amount for work done in the United States, you must report that amount as U.S. source income. If you cannot determine how much is for work done in the United States, or for work done partly in the United States and partly in a foreign country, determine the amount of U.S. source income using the method that most correctly shows the proper source of your income.*
>
> *In most cases you can make this determination on a time basis. U.S. source income is the amount that results from multiplying your total pay (including allowances, re-imbursements other than for foreign moves, and noncash fringe benefits) by a fraction. The numerator (top number) is the number of days you worked within the United States. The denominator is the total number of days of work for which you were paid.*

IMPORTANT NOTE: *The term "United States" in the Internal Revenue Code by default actually means the "federal zone" and not the 50 states of the United States. That is because of the definition of the terms "United States" and "State" found in 26 U.S.C. section 7701(a)(9) and 7701(a)(10) respectively. There are two exceptions to this rule found in I.R.C.*

sections 3121 and 4612, which have to do with taxes other than personal income taxes. This finding is also consistent with Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the U.S. Constitution, which both forbid direct taxes on natural persons without using apportionment.

This is also suggested by the title of Part I of Subchapter N (of which 861 is the first section), "*Source rules and other general rules relating to **foreign** income*." Under the usual overly-broad (and incorrect) interpretation of the legal scope of the term "*gross income*," this would appear as a contradiction, since "*Income from sources **within** the United States*" (the title of Section 861) would at first glance seem to be the opposite of "***foreign** income*." The specific taxable sources shown later demonstrate that income from *within* the United States** (the federal zone) can be taxable only if received by certain individuals ***outside*** of the United States** (the federal zone), thus making the income ***foreign*** income. For the purposes of the income tax, as we discussed in section 5.3, income earned from within the 50 states is counted as "foreign income".

While the title of a part of the statutes may indicate what that part is about, it should be mentioned that 26 U.S.C. § 7806(b) states that such titles do not change the actual meaning of the law ("*nor shall any… descriptive matter relating to the contents of this title be given any legal effect*"). The above explanation for the title of Part I, Subchapter N is therefore not crucial, but does give a possible explanation of why the title is as it is.

QUESTION FOR DOUBTERS: *Does Part I (Section 861 and following) of Subchapter N, and related regulations, determine what is considered a "source" of income for purposes of the federal income tax?*

5.6.10.4 Determining Taxable Income from U.S.** Sources

In addition to the fact that Section 861 and following, and related regulations, determine what is considered a "*source*" of income subject to the income tax, the regulations also repeatedly state that these are also the specific sections to be used to determine "*gross income*" and "*taxable income*" from sources within and/or without the United States** (the federal zone).

> *"Rules are prescribed for **determination of gross income and taxable income** derived from sources **within and without** the United States, and for the allocation of income derived partly from sources within the United States and partly without the United States or within United States possessions. **§§ 1.861-1 through 1.864**. (Secs. **861-864**; '54 Code.)" [Treasury Decision 6258]*

The sections which are specifically for determining *taxable* income from sources *within* the United States** (the federal zone) are **26 U.S.C. § 861(b)** of the statutes, and the corresponding regulations found at **26 CFR § 1.861-8**. (The regulations under Section 63, the section defining "*taxable income*," do *not* explain how to determine taxable income.) While the relevance of these sections may quickly become obvious, the repeated documentation is important since most tax professionals are already aware that these sections are ***not*** about the income of most Americans.

Section **861(b)** (as mentioned above) is entitled "***Taxable income** from sources within the United States*." This section states that taxable income from sources within the United States** (the federal zone) is the gross income described in 861(a) minus allowable deductions. The regulations under Section 861 state (in the first paragraph):

> *"The statute provides for the following three categories of income: (1) **Within** the United States. The **gross income** from sources within the United States… See Secs. 1.861-2 to 1.861-7, inclusive, and Sec. 1.863-1. **The taxable income from sources within the United States**… shall be determined by deducting therefrom, in accordance with sections **861(b)** and 863(a), [allowable deductions]. See Secs. **1.861-8** and 1.863-1." [26 CFR § 1.861-1(a)(1)]*

(The other two categories of income are income from "*without*" (outside of) the United States** (the federal zone), dealt with by Section 862 and related regulations, and income from sources partly within and partly without the U.S., dealt with by Section 863 and related regulations.)

As the above citation states, items of "gross income" from sources within the U.S. are dealt with by 861(a) of the statutes and 1.861-2 through 1.861-7 of the regulations. Taxable income is determined by **861(b)** of the statutes, and the corresponding regulations in **1.861-8**. These regulations are predictably entitled "*Computation of **taxable income from sources within the United States** and from other sources and activities*," and reiterate the point:

> *"Sections **861(b)** and 863(a) state in general terms **how to determine taxable income of a taxpayer from sources within the United States** after gross income from sources within the United States has been determined." [26 CFR § 1.861-8]*

In the regulations under Section 863 (concerning income from sources inside and outside the U.S.), the following is stated:

> *"**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." [26 CFR § 1.863-1(c)]*

(The vast majority of tax professionals ***do not use these sections*** to determine taxable income from sources within the United States of America. At this point, the average American reading this report may guess that there must be some "context," or some other section, or something *somewhere* which would justify the tax professionals blatantly disregarding and disobeying the clear language used in the citations shown above. There is not.)

Note how sections **1.861-8** and following of the regulations are identified as the sections "*for determining taxable income from sources **within** the United States*," as well as being the sections to be used whether the income is from sources within ***or*** without the United States** (the federal zone). A similar structure occurs in the regulations under Section 862 (dealing with income from outside of the United States**):

> *"(b) Taxable income. The taxable income from sources **without** the United States… shall be determined on the same basis as that used in **Sec. 1.861-8 for determining the taxable income from sources within the United States**." [26 CFR § 1.862-1]*

Section 1.863-6 of the regulations (dealing with income from within a foreign country or federal possession) also identifies sections 1.861-1 through 1.863-5 as applying "[t]*he principles… for determining the **gross and the taxable income** from sources within and without the United States*." Over and over again it is shown that **26 U.S.C. § 861(b)** of the statutes and **26 CFR § 1.861-8** of the regulations are to be used to determine the taxable income from sources within the United States** (the federal zone).

QUESTION FOR DOUBTERS: *Are 26 U.S.C. § 861(b) and 26 CFR § 1.861-8 the sections to be used to determine taxable income from government sources of tax revenue within the United States**?*

After all the preceding discussion on taxable sources of income for the government, let us summarize with a picture/table, exactly what we mean. The table on the following page was constructed directly from the Internal Revenue Code and the underlying Treasury regulations to clearly show what is and is not subject to federal tax. In order for income received by an American to be taxable, it must fit into at least one category in each of the three vertical columns appearing in the table. If it does not, then the income cannot be lawfully taxed.

Table 5-17: Liability for tax summary: Income earned must fall into ALL THREE columns to be taxable

1	*2*	*3*
U.S. Supreme Court: Must be "income"	***Natural person's "source" of income***	***Government's "sources" of income (taxable activities for the indirect excise tax known as the "income tax")***
Eisner v. Macomber**, 252 U.S. 189, 207, 40 S.Ct. 189, 9 A.L.R. 1570 (1920):* *"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 an what is not 'income,'…according to truth and substance, without regard to form.* ***Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it derives its power to legislate, and within those limitations alone that power can be lawfully exercised*… [pg. 207] …After examining dictionaries in common use 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*	**Code: 26 U.S.C. Section 61:** 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.*	**Code: 26 U.S.C. 861** Sec. 861. Income from sources within the United States (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 (4) Rentals and royalties (5) Disposition of United States real property interest (6) Sale or exchange of inventory property (7) Amounts received as underwriting income (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	*2*	*3*
U.S. Supreme Court: Must be "income"	***Natural person's "source" of income***	***Government's "sources" of income (taxable activities for the indirect excise tax known as the "income tax")***
L.Ed. 285] and ***Doyle v. Mitchell Bros. Co.****, 247 U.S. 179, 185, 38* ***Stratton's Independence v. Howbert****, 231 U.S. 399,414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913)* *"This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but* ***an excise tax upon the conduct of business in a corporate capacity, measuring, however, the amount of tax by the income of the corporation****..."*	**Regulations: 26 CFR § 1.61** Sec. 1.61-1 Gross income. (a) General definition. **Gross income means all income from whatever source derived, unless excluded by law**. Gross income includes income realized in any form, whether in money, property, or services. Income may be realized, therefore, in the form of services, meals, accommodations, stock, or other property, as well as in cash. Section 61 lists the more common items of gross income for purposes of illustration. For purposes of further illustration, Sec. 1.61-14 mentions several miscellaneous items of gross income not listed specifically in section 61. Gross income, however, is not limited to the items so enumerated. (b) Cross references. (1) For examples of items specifically included in gross income, see Part II (section 71 and following), Subchapter B, Chapter 1 of the Code. (2) For examples of items specifically excluded from gross income, see part III (section 101 and following), Subchapter B, Chapter 1 of the Code. (3) For general rules as to the taxable year for which an item is to be included in gross income, see section 451 and the regulations thereunder.	**Regulations: 26 CFR § 1.861-8** Sec. 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities. (a) In general. (1) Scope. Sections 861(b) and 863(a) state in general terms how to determine taxable income of a taxpayer from sources within the United States after gross income from sources within the United States has been determined. Sections 862(b) and 863(a) state in general terms how to determine taxable income of a taxpayer from sources without the United States after gross income from sources without the United States has been determined. This section provides specific guidance for applying the cited Code sections by prescribing rules for the allocation and apportionment of expenses, losses, and other deductions (referred to collectively in this section as "deductions") of the taxpayer. ***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. The operative sections include, among others, sections 871(b) and 882 (relating to taxable income of a nonresident alien individual or a foreign corporation which is effectively connected with the conduct of a trade or business in the United States), section 904(a)(1) (as in effect before enactment of the Tax Reform Act of 1976, relating to taxable income from sources within specific foreign countries), and section 904(a)(2) (as in effect before enactment of the Tax Reform Act of 1976, or section 904(a) after such enactment, relating to taxable income from all sources without the United States). … (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.

1	*2*	*3*
U.S. Supreme Court: Must be "income"	***Natural person's "source" of income***	***Government's "sources" of income (taxable activities for the indirect excise tax known as the "income tax")***
		Regulations: 26 CFR § 1.861-8 (cont) (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 sections 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

1	*2*	*3*
U.S. Supreme Court: Must be "income"	***Natural person's "source" of income***	***Government's "sources" of income (taxable activities for the indirect excise tax known as the "income tax")***
		Regulations: 26 CFR § 1.861-8 (cont) 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 section 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);

1	*2*	*3*
U.S. Supreme Court: Must be "income"	***Natural person's* "source" of income**	***Government's* "sources" of income (taxable activities for the indirect excise tax known as the "income tax")**
		Regulations: 26 CFR § 1.861-8 (cont) (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 CFR, Part 3)

NOTES:

1. This table is used for determining the portion of a "person's" income that is subject to tax. Each "item" of gross income received by a "person" (which is a federal corporation or partnership) must fall into a category found in each of the three columns, 1 through 3.
2. We will now give you some simplified examples of how to apply this table:
   - 2.1. Let's say you are an U.S.** citizen who has profit from an investment within the U.S.** (also called the federal zone, which is federal property only).
     - 2.1.1. Your income *does not* meet the description of "income" subject to tax under the U.S. Supreme Court in Column 1, and is therefore not taxable on this basis alone.
     - 2.1.2. Your income meets the definition of gross income under 26 CFR § 1.61(a) above.
     - 2.1.3. Your income cannot be allocated to a taxable source within the United States** as identified in Column 3 and within 26 CFR § 1.861-8(f). Therefore, it is not subject to federal tax and the recipient cannot be liable for federal tax on the amount based on this exclusion alone.
   - 2.2. You are a nonresident alien not involved in a "trade or business in the U.S.**" (holding political office) in receipt of wage income as a federal employee.
     - 2.2.1. Your income does not meet the definition of "income" found in Column 1 per the Supreme Court because it is not profit from a federal corporation.

2.2.2. Your income meets the definition of "gross income" found in Column 2 and 26 CFR § 1.61(a) above.

2.2.3. Your income also ***cannot*** be allocated to a taxable source of income "within the United States**" under Column 3 and 26 CFR § 1.861-8(f). Because the income cannot be allocated to something found in all three columns, then it is not taxable and the recipient cannot be liable for tax.

2.3. You are a U.S. Congressman who is a nonresident alien and who is in receipt of wages connected with political office.

2.3.1. Your income does not meet the definition of "income" found in Column 1 as defined by the Supreme Court, and is not taxable on that basis alone.

2.3.2. Your income meets the definition of "gross income" found in Column 2 and 26 CFR § 1.61(a).

2.3.3. Your income does fall in a taxable source from within the U.S.* as found in Column 3 above and 26 CFR § 1.861-8(f)(1)(iv) (entitled Effectively Connected Income).

5.6.10.5 Specific Taxable Sources

Source rules for purposes of gross income that is the subject of taxation are identified in 26 U.S.C. Sections 861 through 863. Section 861 covers sources "within" the United States, meaning income derived or effectively connected with a trade or business within the U.S.**/federal zone. Section 862 covers sources "without" the United States, which is to say income received from within or between the 50 states of the United States of America. We will now cover the requirements relating to these sources independently.

5.6.10.5.1 Sources "within" the United States: Income originating inside The Federal Zone

Section 861 of the statutes uses general language that at first seems to apply to all income coming from within the United States of America, by saying

> *"The following items of gross income shall be treated as income from sources* ***within the United States****:"*

However, as we emphasized in section 4.6 (entitled "The Federal Zone") we need to keep reminding ourselves of the definition of the term "United States" as we read this section and all the implementing regulations. Once again, the "United States", as defined in Section 7701 of the IRC, actually consists of only the "District of Columbia" and other federal possessions and does *not* include the 50 states! The main reason for going through the mental exercise in this section of identifying specific sources in the implementing regulations is to confirm this limited jurisdiction of the Internal Revenue Code and that Congress stays within its Constitutional constraints in Article 1, Section 8, Clauses 1 through 3 and 1:9:4. As we will see, the statutes and the regulations are indeed completely consistent with these Constitutional constraints and the definition of the term "United States" as only the "federal zone" and *not* the 50 states.

Following the introductory statement indicated above, section 861 then lists similar "items" of income to those listed in Section 61 (while specifying that they are coming from within the United States**). As with Section 61, it is easy to misconstrue this list of "items" as being a list of "sources," which it is not. The regulations related to Section 861 contradict this possible misinterpretation. (And, as will be shown later, the older regulations and statutes make the correct application of the law crystal clear.)

The regulations in Section 1.861-8 begins by saying that Section 861(b) of the statutes describes "*in general terms*" how to determine taxable income from sources within the United States** (the federal zone). These same regulations later specify that Section 861 is about items of income derived from "***specific*** *sources*."

> *"(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****." [26 CFR § 1.861-8(f)(3)(ii)]*

In the first paragraph of Section 1.861-8 of the regulations (the section "*for determining taxable income from sources within the United States*"), it is again made clear that the section applies only to the listed "*items*" of income when derived from "***specific*** *sources*."

> *"The rules contained in this section apply in determining* ***taxable income*** *of the taxpayer from* ***specific sources*** *and activities…" [26 CFR § 1.861-8(a)]*

Again, a few paragraphs later, in defining the term "*statutory grouping*," these regulations *again* state that taxable income must come from a "***specific*** *source*."

> *"…the term 'statutory grouping' means the 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…" [26 CFR § 1.861-8(a)(4)]*

In 26 CFR § 1.861-8(f)(1) it is ***again*** made clear that Section 1.861-8 (the section "*for determining taxable income from sources within the United States*") is applicable only to income derived from "***specific*** *sources*."

> ***"****...the determination of taxable income of the taxpayer from* ***specific*** ***sources*** *or activities and which gives rise to* ***statutory groupings*** *[see previous citation]* ***to which this section is applicable****..." [26 CFR § 1.861-8(f)(1)]*

From these it is clear that the term "*source*" as used in Sections 61 and 861 does not simply mean any activity from which income is derived. If it did, there would be no need for Section 861 and following, and related regulations, to "*determine the sources of income for purposes of the income tax*." The following citations show that Section 1.861-8(f)(1) lists the "*specific sources*" of income subject to the income tax.

Again, the first paragraph of 26 CFR § 1.861-8 states the following (the meaning of "*operative section*" will be explained below):

> *"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." [26 CFR § 1.861-8(a)(1)]*

The definition of "statutory grouping" (mentioned above) also refers to "*paragraph (f)(1)*" as the list of "specific sources."

> *"...the term 'statutory grouping' means the 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. (****See paragraph (f)(1) of this section****.)" [26 CFR § 1.861-8(a)(4)]*

The regulations twice identify "***paragraph (f)(1) of this section***" (26 CFR § 1.861-8(f)(1)) as the list of specific sources. Paragraph (f)(1) itself confirms this again, and then lists the "*specific sources*" subject to the income tax:

> *"The operative sections of the Code which require the* ***determination of taxable income*** *of the taxpayer from* ***specific sources*** *or activities and which gives rise to statutory groupings to which this section is applicable include the sections described below.*
> *(i) Overall limitation to the* ***foreign*** *tax credit...*
> *(ii) [Reserved]*
> *(iii)* ***DISC*** *and* ***FSC*** *taxable income... [international and foreign sales corporations]*
> *(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****. The rules provided in this section also apply in determining--*
> *(A) The amount of* ***foreign*** *source items...*
> *(B) The amount of* ***foreign*** *mineral income...*
> *(C) [Reserved]*
> *(D) The amount of* ***foreign*** *oil and gas extraction income...*
> *(E) (deals with* ***Puerto Rico*** *tax credits)*
> *(F) (deals with* ***Puerto Rico*** *tax credits)*
> *(G) (deals with* ***Virgin Islands*** *tax credits)*
> *(H) The income derived from* ***Guam*** *by an individual...*
> *(I) (deals with* ***China Trade Act*** *corporations)*
> *(J) (deals with* ***foreign*** *corporations)*
> *(K) (deals with insurance income of* ***foreign*** *corporations)*
> *(L) (deals with countries subject to* ***international boycott****)*
> *(M) (deals with the* ***Merchant Marine Act*** *of 1936)" [26 CFR § 1.861-8(f)(1)]*

None of these "sources" apply to United States citizens who live and work exclusively within the 50 states of the United States of America. (Federal "possessions," such as Guam, Puerto Rico, etc., are considered "foreign" under the law.) This is the only list of "sources" in Part I of Subchapter N, or the regulations thereunder, which (as the regulations say) "*determine the sources of income for purposes of the income tax*." We can see quite clearly that all of these taxable sources are part of the "federal zone", which includes the District of Columbia and all federal possessions, or pertain to foreign commerce as allowed under Article 1, Section 8, Clause 3 of the constitution.

The next subsection (1.861-8(g)) gives examples about how 26 CFR § 1.861-8 works, and states that "[i]*n 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* ***foreign*** *tax credit under section 904(a)*," again showing that there must be some "operative section" in order for the section to apply, and in order for there to be taxable income.

So, to review, the sections which "*determine the* ***sources*** *of income for* ***purposes of the income tax***" (namely, 861 and following and related regulations) apply only to income from the "***specific sources***" listed in 26 CFR § 1.861-8(f)(1). Most people do not receive income from these "*sources of income for purposes of the income tax*," and most people do not, therefore, receive "*income from whatever* ***source*** *derived*" (the general definition of "*gross income*") subject to the income tax.

QUESTION FOR DOUBTERS: *Under 26 U.S.C. § 861 and 26 CFR § 1.861-8, is income taxable only if derived from "specific sources" related to international and foreign commerce (including federal possessions)?*

5.6.10.5.2 Sources "without" the United States: Income originating inside the 50 states and foreign nations

This section deals with income from sources "without" the United States** (the federal zone). Because the term "United States" is defined in 26 U.S.C. §7701 to include only the federal zone, income from "without" the United States** includes all income earned in the 50 states and in any foreign nation. By implication, any income derived from "without" the "United States" is "foreign income" connected with a "foreign business" and a "foreign corporation" (see 26 U.S.C. §7701(a)(5)). The only exception to this is if you work for a corporation that is registered in the District of Columbia and recognized by the U.S. Government, in which case you work for a "domestic corporation" as defined in 26 U.S.C. §7701(a)(4).

IRS publication 54 refers to areas where you receive "foreign income" as a "foreign country". Interestingly, if you occupy one of the 50 states of the United States, you do indeed occupy a "foreign country" per the IRS' own "word of art" definitions found in publication 54. We explain and justify this in both section 5.2.7 entitled "The definition of 'foreign income' relative to the Internal Revenue Code" and in section 5.3.2 entitled "What's Your Proper Federal Income Tax Filing Status?". This all sounds rather confusing, we'll admit, but then again, that's the way the IRS and our congress likes to keep things so they have plenty of leverage to manipulate and coerce abuse ignorant Citizens into paying an unlawful income tax.

Section 862 of the I.R.C. describes income from sources "without" the United States as follows:

> *Sec. 862. Income from sources without the United States*
>
> *(a) Gross income from sources without United States*
>
> *The following items of gross income shall be treated as income from sources without the United States:*
>
> *(1) interest other than that derived from sources within the United States as provided in section 861(a)(1);*
>
> *(2) dividends other than those derived from sources within the United States as provided in section 861(a)(2);*

> *(3) compensation for labor or personal services performed without the United States;*
>
> *(4) rentals or royalties from property located without the United States or from any interest in such property, including rentals or royalties for the use of or for the privilege of using without the United States patents, copyrights, secret processes and formulas, good will, trade-marks, trade brands, franchises, and other like properties;*
>
> *(5) gains, profits, and income from the sale or exchange of real property located without the United States;*
>
> *(6) gains, profits, and income derived from the purchase of inventory property (within the meaning of section 865(i)(1)) within the United States and its sale or exchange without the United States;*
>
> *(7) underwriting income other than that derived from sources within the United States as provided in section 861(a)(7); and*
>
> *(8) gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c)) when the real property is located in the Virgin Islands.*
>
> *(b) Taxable income from sources without United States*
>
> *From the items of gross income specified in subsection (a) 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 treated in full as taxable income from sources without 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.*

On the surface, it would appear that everything without the U.S.**(the federal zone) fits into the category of "gross income". But examining the regulations further, we find a completely different story! In 26 CFR § 1.864-2(b)(i), we can see that income from personal services derived from "without" the United States and received by a nonresident alien individual is **not subject to tax**. Keep in mind that the definition of "foreign" in the below case is anything outside the territorial jurisdiction of the United States, which includes only the federal zone:

> *Sec. 1.**864-2** Trade or business within the United States.*
>
> *(b) Performance of personal services for foreign employer--(1) **Excepted services**. For purposes of paragraph (a) of this section, **the term ``engaged in trade or business within the United States'' does not include the performance of personal services**--*
>
> *(i) **For a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States at any time during the taxable year,** or*
>
> *(ii) For an office or place of business maintained in a foreign country or in a possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership or a domestic corporation, by a nonresident alien individual who is temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate gross amount of $3,000.*

You will note that most of us fit in the above category, because we do not reside in the U.S.**/federal zone and are nonresident alien, natural born Sovereign Citizens and "U.S. nationals" of the U.S.*/U.S.*** (U.S. the country and the 50 states, but not the federal zone). We will explain why shortly. Even more enlightening is that *the graduated income tax that most of us have needlessly paid all these years applies ONLY to income* ***effectively connected with a trade or business in the United States***:

> ***26 U.S.C. §871(b)(2)-GRADUATED RATE OF TAX…***
>
> ***"(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."***

26 U.S.C §7701(a)(26) makes it clear that only elected or appointed Government officials holding "public office" are engaged in a "trade or business". Residents and Citizens of the 50 states (which is most of us) are American Citizens who are NOT performing any of the functions of a ***public office**** and, therefore, we are ***not*** engaged in, and have earned ***no income effectively connected to a "trade or business" within the United States (federal zone) or the U.S. Government***.

> *26 U.S.C. §7701(a)(26) Definitions. Trade or Business. The term "trade or business" includes [only] the performance of the functions of a* ***public office."***
>
> Following is a definition of "public office":
>
> ****Public Office, pursuant to Black's Law Dictionary, Abridged 6th Edition, means:***
> *"Essential characteristics of a '****public office****' are:*
> *(11) Authority conferred by law,*
> *(12) Fixed tenure of office, and*
> *(13) Power to exercise some of the sovereign functions* ***of government****.*
> *(14) Key element of such test is that "officer is carrying out a sovereign function'.*
> *(15) Essential elements to establish public position as 'public office' are:*
> *(a) Position must be created by Constitution, legislature, or through authority conferred by legislature.*
> *(b) Portion of sovereign power of government must be delegated to position,*
> *(c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.*
> *(d) Duties must be performed independently without control of superior power other than law, and*
> *(e) Position must have some permanency."*

For the purposes of the income tax, "*Trade or Business"* 26 U.S.C. §7701(a)(26), is a "***term"**** or ***"word of art"*** defined by Congress. Pursuant to Congressional rules of statutory construction a "term" may have a limited definition which is *different* than the common understanding or the dictionary definition of the same word(s). Such term must be clearly and specifically defined by Congress within the Code utilizing it.

> ****Term: "An expression or word especially one that has a particular meaning in a particular profession."*** *i.e.- term of art. –Ballentine's Law Dictionary.*
>
> *"Words of Art"—These are "words that have a particular meaning* ***in a particular area of study*** *and have either* ***no meaning*** *or a* ***different meaning outside of that field".-*** *Barron's Dictionary.*

In statutes levying taxes, the word "*includes"* is a word of *limitation.* It limits the definition of the *term* to include only the specific elements or words following the word "*includes*". However, granting a Congressional intent to make *"includes",* a word of *enlargement,* pursuant to 26 U.S.C. §7701(c), it could only be enlarged to introduce other words, which are *synonymous* to, or in the precise same category or genus of, the other words used in the meaning.

The term '*trade or business*' includes the performance of the functions of a '***public office',*** cannot, therefore, be expanded by implication, to ***also include*** the functions of private, independent, non-governmental occupations of common right, or occupations of common right within the government:

> ***Treasury Definition 3950, Vol. 29, January-December, 1927, pgs. 64 and 65*** *defines the words* ***includes*** *and* ***including*** *as: "(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."*
>
> *"****Includes*** *is a word of* ***limitation****. Where a* ***general term*** *in Statute is followed by the word, '****including****' the primary import of the specific words following the quoted words is to indicate restriction rather than enlargement.* ***Powers ex re. Covon v. Charron R.I.****, 135 A. 2nd 829, 832 Definitions-Words and Phrases pages 156-156, Words and Phrases under '****limitations****'."*
>
> *"In the interpretation of* ***statutes levying taxes****, it is the established rule* ***not to*** *extend their provisions by implication beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen."* ***Gould v. Gould****, 245 U.S. 151, at 153.*

Because residents and Citizens of the 50 states are not engaged in a "*trade or business*" within the United States, pursuant to 26 CFR § 1.871-1(b)(1)(i), *for the purposes of the income tax*, they are in a class of "*non-resident alien individuals*", defined as follows:

> ***26 CFR § 1.871-1***
>
> ***"…(b) Classes of non-resident aliens-***
>
> ***In general. For purposes of the income tax, nonresident alien individuals are divided into the following classes:***
>
> ***Nonresident alien individuals who at no time during the taxable year engaged in a trade or business in the United States…"***

Therefore, pursuant to 26 CFR § 1.871-7, ***natural born Sovereign Citizens and residents of the 50 states are not subject to the graduated income tax imposed by 26 U.S.C. Section 1***.

> *26 CFR § 1.871-7*
>
> *Taxation of nonresident alien individuals* ***not engaged in trade or U.S. business.—***
>
> *Imposition of tax. (1) "…a nonresident alien individual…is NOT subject to the tax imposed by Section 1" [Subtitle A, Chapter 1]*

5.6.10.6 Operative Sections

The earlier sections of Title 26 (26 U.S.C. 61 and following) deal with types of *income* that may be taxable (such as compensation for services). However, these sections do not specify where the transaction is taking place, or who is receiving the income. Obviously not everyone on earth who receives "compensation for services" is taxable under U.S. law. A separate part of the law, found in Subchapter N, deals with what types of commerce generate taxable income.

Subchapter N is entitled "*Tax based on **income** from **sources** within or without the United States.*" As the title suggests, this subchapter explains when income from within or without the United States** (the federal zone) is subject to the income tax. But on examining Subchapter N, it is readily apparent that it relates only to international and foreign commerce, but not to citizens who receive all of their income from within the 50 states. This can be seen by the titles of the five "Parts" of Subchapter N, which are "*Source rules and other general rules relating to **foreign** income*" (Part I), "***Nonresident aliens** and **foreign** corporations*" (Part II), "*Income from sources **without*** [outside of] *the United States*" (Part III), "*Domestic **international** sales corporations*" (Part IV), and "***International** boycott determinations*" (Part V).

The *statutes* of Part I of Subchapter N (beginning with 26 U.S.C. § 861) give general rules about "within" and "without," but the *regulations* thereunder make it quite clear that these rules apply only to the taxable activities described throughout the *other* "Parts" of Subchapter N.

> *"(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**." [26 CFR § 1.861-8(f)(3)(ii)]*

This term "*specific sources*" is used in three other places in the regulations, every one of which specifically refers to taxable activities described in the "operative sections" of the statutes throughout Subchapter N (which are listed in 1.861-8(f)(1) of the regulations). In other words, while the ***regulations*** list the taxable activities all in one place (26 CFR § 1.861-8(f)(1), the ***statutes*** describe those taxable activities in numerous sections throughout all of Subchapter N. The "*specific sources*" listed in the regulations each refer specifically to sections of the statutes (called "*operative sections*") describing those activities. For example, item "*(iv)*" on the list in 1.861-8(f)(1) specifically refers to sections 871(b)(1) and 882(a)(1) of the statutes, which state the following:

> *"A nonresident alien individual engaged in trade or business within the United States… shall be taxable as provided in section 1…" [26 U.S.C. § 871(b)(1)]*

> *"A foreign corporation engaged in trade or business within the United States… shall be taxable as provided in section 11…" [26 U.S.C. § 882(a)(1)] (Section 11 imposes the income tax on corporations, while Section 1 imposes it on individuals)*

Here the statutes state that these specific activities (or "sources") may produce taxable income. If an "*item*" of income (such as compensation for services) derives from the activity described in this "operative section," that income is subject to the income tax. The "*shall be taxable*" phrase would be entirely unnecessary if "*from whatever source derived*" had the broad meaning that the usual (and incorrect) interpretation of the law gives it.

There is no such "*shall be taxable*" phrase, nor any "*operative section*" describing an activity in which a United States Citizen living and working exclusively within the 50 states receives income from within the 50 states. The regulations under Section 861 make it clear that the "*items*" of income must derive from a taxable source or activity described in an "operative section" of the statutes in order to be taxable. Other income does not legally constitute "*income from whatever **source** derived*."

The following analogy may help to clarify the matter of "items" of income and "sources" of income. Suppose that there was a law imposing a tax on "Zonkos," and that the law defined "Zonkos" as "all **toys** from whatever **store** derived, including the following toys: plastic cars, dolls, yoyos," etc. Then the law stated that another section "determines the **stores** for purposes of the Zonko tax," and that section listed "Bob's Toys," "Toy City," and "ToyWorld" as "toy stores."

In this example, there would be two distinct aspects of the term "Zonko": whether an item is a taxable "**toy**," and whether it comes from a taxable "**store**." **Both** criteria would have to be met for it to legally constitute a "Zonko." For example, a baby bottle bought at ToyWorld would **not** be a "Zonko" (even though it came from a "store"), if baby bottles are not within the legal definition of "toys." Also, a doll bought from "Chuck's Bargain Basement" also would **not** be a "Zonko" (even though it is a "toy"), as it did not come from something within the legal meaning of "store." A yoyo from Toyworld *would* be a "Zonko" as it is both a "toy" *and* comes from a "store."

Similarly, if an "item" of income (such as dividends) does not come from a taxable "source" or activity (such as a foreign corporation doing business within the United States**), it does not constitute "gross income." While the law goes to great length to specify which "items" of income may be included in "gross income," the other condition must still be met in order for those items to be taxable: they must derive from a taxable "source" or activity under an "operative section" of Subchapter N (as explained in Section 1.861-8(f)(1) of the regulations). (Note that the definition of "*gross income*" includes both criteria: "*all **income** from whatever **source** derived*.")

5.6.10.7 Summary of the 861 position

The current statutes and regulations show the correct, limited application of the "income tax" imposed by 26 U.S.C. § 1, which is in conflict with what the public generally believes regarding the matter.

TO SUMMARIZE:

1. A *direct tax* is one levied directly upon citizens. The Federal Income Tax, for instance, is a *direct tax*. Direct taxes were best explained in the Supreme Court case of ***Knowlton v. Moore*** (178 U.S. 41) in 1900, which stated 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."*

2. Article 1, Section 2, Clause 3 of the U.S. Constitution states that "*Representatives and direct taxes shall be apportioned among the several States...*"

3. Article 1, Section 9, Clause 4 of the U.S. Constitution states that "*No Capitation or other direct tax shall be laid unless in proportion to the Census or Enumeration herein before directed to be taken.*"

4. There can be no unapportioned direct tax, or it would violate the above constitutional limitations. This means that direct taxes must be requested NOT from citizens, but requested from the individual states by the Federal Government. Therefore, a Citizen CANNOT be made liable for the payment of federal income taxes.

5. The 16th Amendment to the U.S. Constitution, which allegedly authorized the imposition of federal income taxes, did not change the constitution in such a way as to eliminate the constitutional distinction between direct and indirect taxes. It therefore *did not* authorize the imposition of *direct, unapportioned* Federal Income Taxes upon citizens of the United States of America. Instead, it authorized the taxation of income as an excise tax, which is to say that it is a *business tax levied on corporate or business income, and not directly on individuals*. This finding was confirmed in the u.S. supreme Court case of ***Cook v. Tait*** (265 U.S. 47) in 1924.

6. From a legal standpoint, and as interpreted by the courts, income to be treated as taxable MUST be an *item* of income that is taxable (e.g. profit, sales tax, etc), AND must derive from a taxable *source identified in 26 CFR § 1.861-8(f)(1)*. Income that meets BOTH of these criteria is called "gross income". There are *many* taxable *types* or *items* of income but *very few* taxable *sources* as far as the federal government is concerned. All of these sources are identified only in section 861 of the U.S. codes, and all other types are excluded by implication. A favorite IRS trick is to talk about every type of conceivable income as taxable and say ***nothing*** about taxable source.

The following sections of the U.S. Code conclusively demonstrate that they are all collectively consistent in their entirely with the above constitutional limitations on the federal government's ability to tax:

26 U.S.C. § 1 imposes the income tax on "*taxable income*."
26 U.S.C. § 63 defines "*taxable income*" generally as "*gross income*" minus deductions.
26 U.S.C. § 61 defines "*gross income*" generally as income "*from whatever source derived*."
26 U.S.C. §§ 861 - 865, and related regulations, determine the taxable "*sources of income*."

26 CFR § 1.861-8(f) shows that the taxable "*sources of income*" apply only to those engaged in international or foreign commerce (including commerce within federal possessions) or who hold public office.

The income tax is therefore a "voluntary" tax and amounts to a "stupidity tax" on those individuals who are residents of the 50 states and who have only domestic income but who have allowed themselves to be deceived by the IRS into thinking they are "liable" for tax on all income from all "sources".

5.6.10.8 Why Hasn't The 861 Issue Been Challenged in Court Already?

After reading the essence of the evidence up to this point, skeptics often ask us the question:

> *"Why Hasn't The 861 Issue Been Challenged in Court Already? After all, the issue seems pretty straightforward and easy to understand?"*

What follows is our answer to that question. We have searched Supreme Court Cases going back to 1900 and Federal Appellate cases going back to 1930 using both the FindLaw index (http://www.findlaw.com) and the Versus Law index (http://www.versuslaw.com). We have found *absolutely no references* to the 26 U.S.C. Section 861 issue. The fact is that the 861 loophole may already have been used and successfully litigated in the courts, but that there are *no records* of cases dealing with the issue in any of the Federal Reporters or online databases we could find. We are then left to ourselves to try to explain and understand how this might have happened. Let us offer three possible and even probable explanations:

1. IRS Doesn't Argue The 861 Issue or Impose Taxes on People Who Use It. The law on this issue is so clear it doesn't need to be litigated so it never gets into court and is settled by the IRS before it gets to court. They may be content in this case to just keep the truth out of the courts so the whole system doesn't collapse when everyone finds out about this undiscovered/unpublished loophole.
2. IRS Obfuscation. The IRS keeps coming up with lame excuses why section IRC section 861 doesn't apply, for instance, by raising doubt about the meaning of "foreign". They also misinterpret the 16th Amendment phrase "from whatever source derived", to mean that the source of income is irrelevant, which we clearly know is false.
3. Federal judicial conspiracy to protect the income tax. We have extensively documented the existence of a federal judicial conspiracy to protect the income tax in chapter 6. This has lead the federal courts hearing cases dealing with the 861 issue to ensure that the findings are "unpublished". Going unpublished means the judge seals the court record for that case and won't allow the court's findings to be put in the Federal Reporter or any online case database so that others may read the findings and use them as precedents that must be respected later by the courts as part of "stare decisis." They will do this if the case would be an embarrassment to either the judge personally (because of a conflict of interest by the judge, for instance) or the government generally. As an example, if a federal district or appellate court judge is ruling against the U.S. Supreme Court and violating precedent, and doesn't want to have to explain why or be questioned by the Supreme Court or his supervisors, then he will seal the case record and make the case unpublished. This conspiratorial tactic, for instance, was quite common among the several Fifth Amendment cases litigated by the famous tax freedom fighter Bill Conklin in the federal district courts (see section 6.6.4).

We think the most likely of the three explanations above is number 3. You will understand why after you read chapter 6 completely, and especially section 6.6, which talks about the judicial conspiracy to protect the income tax. If the federal courts are doing what we believe they are doing, then the cases dealing with 26 U.S.C. Section 861 aren't being published and are being kept secret by the judges, who after all have a conflict of interest in wanting to perpetuate the tax that pays their salaries. However, in the process of sealing the court record for cases dealing with section 861, the courts are demonstrating involvement in extortion, racketeering, and First Amendment and censorship and rights violation, for which these judges should have been prosecuted for a "conspiracy against rights" under 18 U.S.C. Sec. 241.

Even for unpublished cases, there are still ways to overcome this conspiracy by the courts. If you know the case number and the court for an unpublished case, you can go directly to the court where the case was heard and request the transcripts and the court's judgment. This will bypass the conspiracy and allow us to gather evidence that will implicate judges in the conspiracy so that we can pursue a class action criminal lawsuit against them. All we need are at least 40 citizens who have

been injured by the IRS to put together a class action lawsuit. This leads to the following request we'd like to impose on everyone reading this book:

If you litigate the 26 U.S.C. Section 861 issue, we request that you send us your case number and the court and date your case was heard in so that we can post the case judgment and transcripts, and this is especially true if the judge has sealed the record of your case or made it unpublished! We promise to post a record of it on our website and submit it to the website at http://iresist.com/ice/welcome.htm (Investigation of Curious Evidence, e.g. ICE) for use as legal evidence by other tax freedom fighters. Better yet, please send us a copy of the court's findings as well. Call us up to get the address to mail it to and we will scan it in and put it on our website. Let's work together against this conspiracy, folks!

5.6.10.9 Common IRS and tax professional objections to the 861/source issue with rebuttal

In this subsection, we play the devil's advocate and document all of the deceiving, obfuscating, ill-informed criticisms, complaints, and downright lies you are likely to hear from the IRS in responding to the issues raised in this chapter. The IRS will take these approaches because they will do *anything* to hold on to your money (remember 1 Tim. 6:10 "***The love of money is the root of all evil.***"?), even if you aren't liable for tax. Their deceitful an unethical lawyers have no scruples and will say whatever they have to, including lying to you in order to keep you paying taxes you aren't liable for. Why not lie?: The regulations and the courts say they can't be held legally liable for the advice they give you! But if you give them bad numbers based on your misunderstanding of the tax laws, they fine and penalize you. Hypocrisy!!

We are including these arguments so you can take the offensive with the IRS by being proactive in anticipating the problems they will try to create and having answers for them. We have to keep the Illegal Robbery Squad (I.R.S.) on the defensive at all times. Don't ever let yourself be on the defensive or be unprepared with them, because they will try to carve you up by intimidating you with your own ignorance and fear as their best offensive weapon! Don't hand them that card to play with. Knowledge is power, and you can have the lion's share of the power just by reading and studying this book and our website!

5.6.10.9.1 "We are all taxpayers. You can't get out of paying income tax because the law says you are liable."

IRS OBJECTION: "We're all taxpayers. You can't get out of paying income tax because the law says you are liable."

YOUR PROPER RESPONSE: "Show me the law that makes me liable as a Citizen of the 50 states with income from the 50 states and don't refer in your answer to the fraudulent IRS Publications, but instead to the Internal Revenue Code and your Regulations themselves. The fact is, there is no law and I vehemently deny any liability for tax. Until such time as you can show me proof with the law itself that I am a 'taxpayer', I don't want you referring to me as such, but instead using the term 'Citizen'. You are only using the term 'taxpayer' to keep me on the defensive and to shift the burden of proof onto me, but *you* are the person who has the burden of proof at this point until you demonstrate otherwise."

5.6.10.9.2 "Section 861 says that all income is taxable."

IRS OBJECTION: "26 U.S.C. Section 861 says that income of most people is taxable."

YOUR PROPER RESPONSE:

This is a common erroneous "interpretation" which the IRS and tax professionals have regarding Section 861, which is that it is relevant to everyone, but that it *does* show the income of most people to be taxable. This is due in large part to the general language used in Section 861, which reads:

> *"**Sec. 861. Income from sources within the United States***
> *(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... (2) Dividends... (3) Personal services - Compensation for labor..." [26 U.S.C. § 861]*

(Interestingly, most tax professionals are aware that the application of this section is *not* as broad as it appears to be at first glance.)

As shown above, this section of the statutes applies only in determining taxable income from 'specific sources,' which are all related to international and foreign commerce. The history of the regulations and statutes, as shown above, make this point clear. However, certain sections of the regulations (taken out of context) are used to try to support the claim that the tax is not limited to the "specific sources."

(The entire issue of "residual groupings" mentioned below is settled easily using the older regulations, but for the sake of completeness it will also be dealt with using the *current* regulations. The following explanation deals with an issue intended to be confusing; it is included for the purpose of being thorough in documenting and refuting anything likely to be used to try to refute the conclusions of this report.)

The regulations define a "statutory grouping" of gross income as income from a specific source, while "residual grouping of gross income" means income from anywhere else.

> *"...the term 'statutory grouping of gross income' or '**statutory grouping**' means the gross income from a **specific source** or activity... (See paragraph (f)(1) of this section.) **Gross income from other sources or activities is referred to as the 'residual grouping of gross income' or '<u>residual grouping</u>.'" [26 CFR § 1.861-8(a)(4)]***

The argument is that income from somewhere other than the "specific sources" may also be taxable. The idea is that "gross income" must constitute "taxable income" (after deductions are subtracted), since the definition of "taxable income" is "gross income" minus deductions. However, the regulations often use the term "gross income" in a more general way, meaning any income, whether taxable or not. In fact, the regulations specifically state that the "*residual grouping*" may be <u>excluded</u> from federal taxation.

> *"...the residual grouping may include, or consist entirely of, **<u>excluded income</u>**. See **<u>paragraph (d)(2)</u>** of this section with respect to the allocation and apportionment of deductions to excluded income." [26 CFR § 1.861-8(a)(4)]*

A clear example of tax-exempt income being referred to as "gross income" in a "residual grouping" is shown below. As stated in 26 U.S.C. § 882(a)(2), foreign corporations are only taxable on "*gross income which is effectively connected with the conduct of a trade or business **within** the United States*." The following example therefore shows that any regulation which discusses "gross income" (not "taxable income") from the "residual grouping" in no way shows that the residual grouping must be taxable.

> *"(iii) Apportionment Since X is a <u>foreign corporation</u>, the statutory grouping is gross income effectively connected with X's trade of business in the United States, namely gross income from sources within the United States, and the <u>residual grouping</u> is <u>gross income</u> not effectively connected with a trade or business in the United States, namely gross income from countries A and B." [26 CFR § 1.861-8(g), Example 21]*

The fact that the regulations refer to income as "gross income" does not mean it is taxable. In discussing an item of income, the regulations state the following:

> *"**<u>Gross income</u>** from sources within the United States includes compensation for labor or personal services performed in the United States..." [26 CFR § 1.861-4]*

In the generic sense, compensation for labor within the United States** (the federal zone) is "gross income." However, as the current regulations repeatedly explain, it can only be "taxable income" if it comes from a "specific source." The older regulations dealt with this "item" of income in a very similar way, and the context of the surrounding regulations made it perfectly clear in what situations this "item" could be taxable.

> *"Sec. 29.119-1. Income from sources within the United States.*
> ***Nonresident alien individuals**, **foreign corporations**, and citizens of the United States or domestic corporations **entitled to the benefits of section 251** are taxable only upon income from sources within the United States...*
>
> *The Internal Revenue Code divides the income of **such taxpayer** into three classes:*
> *(1) Income which is derived in full from sources within the United States;*
> *(2) Income which is derived in full from sources without the United States;*
> *(3) Income which is derived partly from sources within and partly from sources without the United States...*
>
> *Sec. 29.119-2. Interest...*
> *Sec. 29.119-3. Dividends...*
> *Sec. 29.119-4. **Compensation for labor or personal services**. - Except as provided in section 119(a)(3), **gross income from sources within the United States includes compensation for labor or personal services** performed within the United States...*
> *Sec. 29.119-5. Rentals and royalties...*
> *Sec. 29.119-6. Sale of real property...*
>
> *Sec. 29.119-10. Apportionment of deductions.*
> *From the **items specified in sections 29.119-1 to 29.119-6**, inclusive, as being derived specifically from sources within the United States there shall, **in the case of nonresident alien individuals and foreign corporations** engaged in trade or business within the United States, be deducted [allowable deductions]. The remainder **shall be included in full as net income** from sources within the United States..."*

The fact that income is referred to in the regulations as "gross income" certainly doesn't mean it is taxable. In fact, after stating that the "residual grouping of **gross income**" may or may not be taxable, the regulations refer the reader to "*paragraph (d)(2)*" regarding "excluded income." As shown above, the only types of income listed as not exempt are:

> *"(A) In the case of a **foreign** taxpayer…*
> *(B) In computing the combined taxable income of a **DISC or FSC**…*
> *(C) For all purposes under **subchapter N** of the Code… the gross income of a **possessions** corporation…*
> *(D) **Foreign earned income** as defined in **section 911** and the regulations thereunder…"*
> *[26 CFR § 1.861-8T(d)(2)(iii)]*

Deductions must be divided between the "statutory grouping" (income from a specific source) and the "residual grouping" (income from anywhere else). This does not mean that the "residual grouping" is taxable. The regulations show in several places that there must be an "operative section" which applies in order to determine taxable income.

> *"A taxpayer to which this section applies is required to allocate deductions to a class of gross income and, then, **if necessary to make the determination required by the operative section of the Code**, to **apportion deductions** within the class of gross income between the statutory grouping of gross income (or among the statutory groupings) and the **residual grouping** of gross income." [26 CFR § 1.861-8(a)(2)]*

The regulation which states that the "residual grouping" may be exempt from taxation also shows that there must be an "operative section" applicable.

> *"In some instances, where **the operative section** so requires, the statutory grouping or the residual grouping may include, or consist entirely of, excluded income." [26 CFR § 1.861-8(a)(4)]*

This is only logical, based on the simple fact that the section "*for determining taxable income from sources within the United States*" (26 CFR § 1.861-8) states over and over again that it is for determining taxable income from "***specific sources***," not the "residual groupings."

> *"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…" [26 CFR § 1.861-8(a)(1)]*

> *"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…" [26 CFR § 1.861-8(f)(1)]*

> *"A taxpayer to which this section applies is required to allocate deductions to a class of gross income and, then, if necessary to make the determination required by the operative section of the Code, to apportion deductions…" [26 CFR § 1.861-8(a)(2)]*

The regulations (and statutes) are not about determining taxable income from anywhere other than the "specific sources." Part of the confusion is from the fact that, in stating that the "residual grouping" *may* consist of excluded income, the regulations imply that it also may be taxable. This is *correct*, but deceptive. The possibility of the "residual grouping" being taxable could easily lead to the erroneous conclusion that income from somewhere *other* than the "specific sources" might be taxable. The assumption is that the "residual grouping" *cannot* be from one of the listed "specific sources." This is not the case.

If person 'A' gets taxable income from **two** "specific sources" (taxable activities described in "operative sections"), the regulations state that all the calculations must be done for each "specific source" *separately*. Paragraph (f)(1) lists the "specific sources" under the "operative sections," and then the next paragraph states the following:

> *"(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**." [26 CFR § 1.861-8(f)(2)]*

While person 'A' is calculating all the deductions, etc. for the **first** "specific source," his income from the **second** "specific source" falls in the category of "*residual grouping*." Likewise, when he is doing the calculations for the taxable income from the **second** "specific source," the income from the **first** is in the "*residual grouping*." The temporary regulations at 26 CFR § 1.861-8T demonstrate this.

> *"Thus, in determining the separate limitations on the foreign tax credit imposed by section 904(d)(1) or by section 907, the income within a separate limitation category **constitutes a statutory grouping** of income and all other income not within that separate limitation category (whether domestic or **within a different separate limitation category**) constitutes the **residual grouping**." [26 CFR § 1.861-8T(c)(1)]*

(The same thing is said again in 26 CFR § 1.861-8T(f)(1)(ii).)

Even an example in the regulations showing that the "residual grouping" may be taxable therefore does **not** imply that income from somewhere other than the "specific sources" may be taxable. The "operative sections" involving individuals receiving income from within federal possessions also makes it possible for an American to have "taxable income" from within *and* without the United States** (the federal zone).

The "residual grouping" argument relies on making assumptions based on something that complex deduction allocation examples might seem to suggest, but do not state (that income **not** from the "specific sources" can be taxable), while at the same time ignoring several sections of regulations which contradict this theory. The over-complexity of these regulations seems designed to cause confusion and uncertainty. But even if the current

complicated regulations by themselves, combined with some "creative interpretation," allowed for the "residual grouping" argument to have some credibility, the older regulations (as shown above) erase that credibility entirely.

The 1945 regulations made no mention of "operative sections," "specific sources," "statutory groupings" or "residual groupings," and didn't take dozens of pages to create a jumbled, confusing mess. Since there was nothing about "residual groupings" back then to base an argument on, to use the argument now would require the claim that since 1945 there must have been a massive expansion of what income is taxable, from international and foreign commerce to **all** commerce, and that the Secretary decided to inform the public of this by innuendos hidden in confusing examples about deduction allocation related to the per-country limitation on the foreign tax credit. (And, as shown before, Congress stated that "no substantive change" was made anyway.)

The common "interpretation" of the income tax laws relies on multiple assumptions, as well as simply ignoring various sections which contradict those assumptions. Some may wish to imagine that some other "sources" of income which the law does not mention must also be taxable. Some may like to assume that everything is taxable unless the law specifically says it is not. And some may say that if there is some uncertainty about what the law requires, then the government by default "wins." All of these are in direct conflict with a basic principle of tax law, which has been explained on numerous occasions by the Supreme Court.

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

> *"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**..." [**Hassett v. Welch**, 303 U.S. 303 (1938)]*

The extensive evidence of the correct, limited application of the income tax leaves little room for doubt. But even if the IRS, or others who would challenge the conclusions of this report, could obfuscate and confuse matters to the point where "it could go either way," the Supreme Court makes it clear that such a disagreement is to be settled in favor of the Citizen, ***not*** the government.

5.6.10.9.3 "IRC Section 861 falls under Subchapter N, Part I, which deals only with FOREIGN Income"

IRS OBJECTION: "26 U.S.C. Section 861 only deals with Foreign income and falls under Subchapter N ('Subchapter N - Tax Based on Income From Sources Within or Without'), Part I of the code, which is entitled 'SOURCE RULES AND OTHER GENERAL RULES RELATING TO **FOREIGN** INCOME'. You shouldn't be looking in this section to identify taxable sources because it doesn't pertain to most Americans, who don't have foreign income."

YOUR PROPER RESPONSE: "First of all, 26 U.S.C. §7806 makes your comment irrelevant, because it says that the titles, table of contents, and organization of the code mean nothing and have no force and effect. Since the word "Foreign" is only used in the title, then it is irrelevant to the discussion:

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.*

Second, as we analyze in detail in section 6.3.6 of this document, the title of Part I used to be "*Determination of sources of income*" and was obfuscated by Congress in 1988 to instead read "*Source rules and other general rules relating to* ***foreign*** *income". The underlying procedures and source rules were not substantially changed. Only the title was changed to further confuse people about source rules and cover up the truth.*

> ***QUESTION FOR DOUBTERS****: What other conclusion explains why this change was made other than to confuse and further conceal the truth? We can see none.*

Even entertaining the notion that your argument about "foreign" is relevant, please answer the question of why does IRC section 861 deal with sources *both* 'within and without' the United States? Doesn't "foreign income" only come from *without* the United States** (the federal zone) by the definition found of "foreign" found in the collegiate dictionary? Let's not forget the definition of the term "United States", which really only means the District of Columbia and the "federal zone". Furthermore, why does neither the Internal Revenue Code or 26 CFR define the word foreign *anywhere unless there was an intent to conceal the true jurisdiction of the U.S. government?* Here are a few examples:

> *Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 6th Edition)*
>
> *Foreign Laws: "The laws of a foreign country or sister state." (Black's Law Dictionary, 6th Edition)*
>
> *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, 6th Edition)*

Why is the word 'within' also included in the title to Part I and section 861? As we discussed in section 5.2.1 "What is the definition of 'foreign' relative to the Internal Revenue Code", all income earned from outside the District of Columbia and other parts of the "federal zone" is counted as "foreign income" as far as Congress is concerned. If I am a natural person and a "U.S. national" but not a "U.S. citizen" living in one of the 50 sovereign states of the United States of America outside of the federal zone, then as far as the U.S. Government is concerned, all of my income comes from a foreign "source" and therefore section 861 absolutely DOES apply to my tax situation and 26 CFR § 1.1441-1 does define me as a "nonresident alien"!

Also, how do you explain the changes made to section 61 of the tax code in approximately 1982 where references pointing to section 861 were deliberately removed by Congress? These references had previously been part of the code since 1921 and indicated that section 861 of the code was to be used for determining valid sources of income! What new law or court case permitted or requires this 'hiding of evidence' and further obfuscation of the tax code? Instead, we think Congress just changed the title of the subsection to confuse people into *not* looking in this section and to hide the fact that this applies to everyone! Earlier versions of the law made it much clearer that citizens with income from the 50 states weren't liable for federal income tax. Under the original tax code, most

"persons" outside of the "federal zone" were nonresident citizens of the U.S. paying taxes on income from a "foreign source". Why has this been progressively hidden in the tax code over the years for no disclosed reason? The IRS is trying to blow smoke and confuse people with the law instead of telling the truth directly to people…that if they are citizens living in the 50 states with income from the 50 states, then they don't owe tax. Please show me a tax law somewhere that contradicts this conclusion about tax liability and is consistent with 1:2:3 (apportionment requirement for direct taxes), 1:9:4 (constraints on direct taxes) and 1:8:1-3 (taxing authority) of the Constitution and the First, Fourth, Fifth, Sixth, and Thirteenth Amendments to the Constitution. Direct taxes based on income violate so many provisions of the U.S. Constitution it isn't funny, and the Sixteenth Amendment, even if you count it as a validly ratified law, didn't change that situation or amend these sections to make an exception.

If you aren't going to refer to section 861 for taxable sources within and without the United States** (the federal zone), then what section in the code ARE you going to use to specify specific taxable sources? There are at least two Supreme Court cases that state that a tax on income is NOT a tax on its "source", including ***James v. United States***, 366 U.S. 213 and ***United States v. Burke***, 504 U.S. 229. You *must* tie the income tax somewhere in the code to a specific geographic area and/or taxable event (excise), which are collectively called a "situs", or the IRC would be invalid and would apply to everyone in the world! This would violate the Sixth Amendment and the 'void for vagueness' criteria we defined in section 3.5.11. The Supreme Court has ruled repeatedly that the income tax is an excise/indirect tax and is unconstitutional as a direct tax (***Stanton v. Baltic Mining***, 240 U.S. 103; ***Evens v. Gore***, 253 U.S. 245), and excises always apply to geographic areas and events. I assume the event is the receipt of income, but where is the section that identifies the geographic area if it isn't 861?"

5.6.10.9.4 "The Sixteenth Amendment says 'from whatever source derived'…this means the source doesn't matter!"

IRS OBJECTION: "The Sixteenth Amendment says 'The Congress shall have power to lay and collect taxes on incomes, from whatever source derived '. This means that the source *doesn't matter*. Why all the big deal about something that is irrelevant?"

YOUR PROPER RESPONSE: "The Treasury regulations on taxable source make it very clear that *specific* sources must be identified as taxable in order for the income to be taxable. See 26 CFR § 1.861-1 thru 1.861-14, which identify specific taxable sources. If sources don't matter, why do these regulations even exist? For instance, 26 CFR § 1.861-8(a) says:

> *"...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****." 26 CFR § 1.861-8(a)*

And what about 26 CFR Sec, 1.861-8(a)(4)?:

> *(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* ***"statutory grouping" means the 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. (See paragraph (f)(1) of this section.)****...*

This approach by the IRS rests on the misreading of "*from whatever source derived*" (as used in 26 U.S.C. § 61) to mean "no matter where it comes from." This interpretation requires the reader to ignore all of the evidence presented in section 5.7 ("Sources of Income") and section 5.8 ("Determining Taxable Income") of this document; most notably, the sections of regulations which state that Section 861 and following, and the regulations thereunder, "*determine the sources of income for purposes of the income tax*," and the sections which state that "*determining taxable income from sources within the United States*" is to be done using 26 U.S.C. § 861(b) and 26 CFR § 1.861-8.

This position is the result of backwards logic. Tax professionals start with the incorrect *assumption* that most people receive taxable income. Therefore, when they discover that (for example) 26 CFR § 1.861-8 does ***not*** show most income to be taxable income, they incorrectly conclude (based on a false premise) that that section should not be used by most people, even though the regulations clearly state otherwise. This is usually stated as "that section doesn't apply to you." The following analogy demonstrates the logical flaw with this half-truth.

As shown above (see "*English vs. Legalese*", section 5.6), one section of the statutes of Subtitle E states that the Secretary shall maintain a central registry of "*all firearms*." But a separate section defines the term "*firearm*," and the legal meaning is far more restrictive than the meaning of the word in common English. For example, a basic hunting rifle is obviously a "firearm" in common English, but is ***not*** considered a "firearm" for purposes of Section 5841. An individual who owns one hunting rifle could, therefore, correctly state that Section 5841 does not impose any obligation on him.

Now imagine someone arguing to him the following: "The definition of 'firearms' **doesn't apply** to your firearm, so you should just ignore the definition in Section 5845. Just look at Section 5841, where it says 'all firearms.' That includes your rifle." Such an argument would be ludicrous, and yet this is precisely the logic (or lack of logic) used by the tax professionals regarding 26 U.S.C. § 861.

Section 61 defines "*gross income*" generally as "*all income from whatever **source** derived*," and Part I of Subchapter N (Section 861 and following) and related regulations "*determine the **sources** of income **for purposes of the income tax***." Many tax professionals will argue that Section 861 "**doesn't apply**" to most people, and therefore most readers should *ignore* the sections which "*determine the sources of income for purposes of the income tax*." This is entirely illogical, but it is the only way for the tax professionals to avoid coming face-to-face with their monumental error. Contrary to the evidence, they continue to claim that most citizens receive taxable income.

The main citation used in an attempt to justify this misinterpretation is found in the regulations related to Section 1 of the statutes (which imposes the income tax).

> *"Sec. 1.1-1 **Income tax on individuals**.*
> *(a) General rule. (1) Section 1 of the Code imposes an income tax on the income of **every individual who is a citizen or resident of the United States** and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual… The tax imposed is upon **taxable income** (determined by subtracting the allowable deductions from **gross income**).*
> *(b) Citizens or residents of the United States liable to tax. In general, **all citizens of the United States, wherever resident**, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from **sources within or without the United States**." [26 CFR § 1.1-1]*

This section is a masterpiece of deception. While being literally correct (as the law must be), it is likely to give the wrong impression. Stating that a tax is imposed "*on the income of every individual who is a citizen or resident*" of the U.S. gives the impression that all income of these individuals is taxable. But anyone even slightly familiar with tax law knows this is *not* the case. The section goes on to specify that the tax is not on all income, but on "*taxable income*" (which is "*gross income*" minus deductions). As shown above, 26 CFR § 1.861-8 is the section for determining "*taxable income*" from within the United States** (the federal zone). The language could just as easily (and just as correctly) stated that "everyone on earth, no matter where he is and no matter where his income comes from, is taxable upon his taxable income." The meaning of the statement is, of course, totally dependent upon the meaning of "taxable income."

Subsection "(b)" also gives a false impression at first glance, while being literally correct. It doesn't matter where someone lives, provided that he receives income from "*sources*" within or without the United States** (the federal zone). And Part I of Subchapter N and related regulations "*determine the **sources** of income for purposes of the income tax*."

It is a word game, where what may be *inferred* differs from what is actually *stated*. If someone does not have "*taxable income*," and if someone does not receive "*income from sources*" (as defined by law), then 26 CFR § 1.1-1 becomes irrelevant. Nothing in the section has any effect on the legal meaning of "taxable income" or "sources of income." Instead, the section uses these terms in a context which makes them sound less restricted.

(As a reminder, the only form ever approved for use with the above regulations under the Paperwork Reduction Act was Form 2555, "*Foreign Earned Income*.")

The predecessors of the current regulations were worded slightly differently.

> *"19.11-1* ***Income tax on individuals***
> *Chapter 1 of the Internal Revenue Code [*]...* ***imposes an income tax on individuals****, including a normal tax (section 11), a surtax (section 12), and a defense tax [*]... The tax is upon* ***net income*** *which is determined by subtracting the allowable deductions from the* ***gross income****. (See generally 21 to 24, inclusive.)"*

[* - Words omitted related only to which years the law was applicable.]

> *"19.11-2 Citizens or residents of the United States liable to tax*
> *In general, citizens of the United States,* ***wherever resident****, are liable to the tax, and* ***it makes no difference that they may own no assets within the United States and may receive no income from sources within the United States****. Every resident alien individual is liable to the tax, even though his income is* ***wholly from sources outside the United States****."*

The wording of these regulations (from 1945), while deceptive, does not give quite as persuasive a deception as the current regulations. The only solid conclusion which can be inferred from these older regulations is that income from *outside* of the United States** (the federal zone) can be taxable to United States citizens and residents.

5.6.10.9.5 "The courts have consistently ruled against the 861 issue"

IRS OBJECTION: "The courts have consistently ruled against the 861 issue. This issue won't go anywhere and is frivolous."

YOUR PROPER RESPONSE: "Oh really? We haven't found a *single* case since 1930 in any of the federal district or appellate courts or since 1900 in the U.S. Supreme Court that mentions the 861/source issue. Can you please quote me the specific case numbers and names so I can research it for myself to validate your specific assertions?"

LIKELY IRS RESPONSE TO YOUR RESPONSE: "I don't have time to deal with this and I'm not here to give legal advice. You need to get a lawyer who understands the laws because you certainly don't. You're walking on thin ice and headed for trouble, buddy."

YOUR PROPER RESPONSE: "IRS Publication 1 says about the rights of 'taxpayers':

> *"I. IRS employees will explain and protect your rights as a taxpayer throughout your contact with us."*

[QUESTION: What about my right to not be taxed directly per the constitution 1:9:4? What about my Fifth Amendment right not to be compelled to testify against myself? What about my First Amendment right to NOT be compelled or penalized NOT communicating with my government on a tax return? What about my right to understand the law and what is specifically prohibited as required by the Sixth Amendment?]

> *"IRS Mission Statement: 'Provide Americas taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.'"*
>
> [QUESTION: What about 'citizens' who technically aren't 'taxpayers' but are being deceived into thinking they are and want to know the law that makes them liable? Do they get equal treatment under the law and a proper explanation of their non-liability to pay income taxes and the legal foundation for it? How can I properly apply the tax laws if IRS employees won't interpret it for me or help or show me where I can read and interpret it myself? Why aren't employees at the IRS held liable for the advice they give, especially if following it causes me to end up paying a fine? Why have them helping me at all on your 800 number if they can't be held legally responsible for the advice they give me and refuse to describe my legal obligations without referring to the IRS Publications, which we have said repeatedly are a fraud and do not have the force of law?]
>
> *"You are responsible for paying only the correct amount of tax due under the law—no more, no less."*
>
> [QUESTION: How can a Citizen know the correct amount of tax due if IRS support people won't refer to the tax law and insist on using IRS Publications, which are clearly in error and which the courts have consistently ruled do not have the force of law?]"

Did you notice that the IRS consistently called ALL PEOPLE "taxpayers" above? *Does that mean that if you don't pay tax, you have NO rights and that you are fair game for the predators and extortionists at the IRS?* We have found personally that you can easily answer this question for yourself by calling their 800 number for help. Call them and assert that you have no income tax liability, correct them when they refer to you as a "taxpayer" and insist instead that they refer to you as an American and that it is their responsibility under the law to demonstrate your liability and meet the burden of proof imposed upon them under the Administrative Procdures Act, 5 U.S.C. §556(d) before you will refer to yourself otherwise. You will find out, as we did, that they will put you on hold forever, get rude and belligerent, refuse to talk to you, and won't show you the law that makes you liable because there is none, will refuse to talk about anything but the fraudulent IRS Publications! This ought to be a big red flag that it's all a big fraud! Why do they do this? Because if they listen to you and learn the truth, someone might drag them into court and prosecute them for conspiracy to violate rights and misapplication of the law. This is also the reason why they won't give you their full name or direct phone number or email or mail address—they don't want to be held legally liable in any way because they know they don't have a leg to stand on.

This last response by the IRS is a scare/intimidation tactic to keep you afraid and ignorant but avoid the law or liability for communicating the law to you correctly and completely in order to protect themselves from culpability for improperly implementing it (this is called "plausible deniability", and they use it as a self-defense mechanism). Instead, the IRS wants to force another expensive attorney to wear you out financially and abuse you in hopes that you will exhaust and wear out quickly and no longer be a bother. This same attorney they want you to get will let you die on the vine in front of the judge because he is an "officer of the court" who can only practice law in court with the permission and approval of a federal judge who receives bribes every month in his paycheck that are derived from tax dollars extorted illegally from you.

5.6.10.9.6 "You are misunderstanding and misapplying the law and you're asking for trouble"

IRS OBJECTION: "You are misunderstanding and misapplying the law and you're asking for trouble."

YOUR PROPER RESPONSE: "Then why aren't you helping me interpret the law correctly? Why is it that you can make me afraid of misapplying the law but won't tell me how to correctly apply it to either define or meet my alleged tax liabilities? Could it be that you want to use my own fear and ignorance to make me compliant and paying the largest amount of tax and penalties instead of empowering me with the knowledge of the law needed to pay the minimum tax and penalties? Prove to me that I am wrong and prove to me that I am liable to pay tax, because I am convinced I'm not liable and would like to give you the benefit of the doubt!"

5.6.10.9.7 "Commissioner v. Glenshaw Glass Co. case makes the source of income irrelevant and taxes all 'sources'"

IRS OBJECTION: "The U.S. Supreme Court has already dealt with the frivolous 861 'source" issue in the case of ***Commissioner v. Glenshaw Glass Co.***, 348 U.S. 426, 429 (1955). That ruling makes the source of income irrelevant. See IRS Notice 2001-40. The IRS stated the following in their Notice 2001-40, available from http://ftp.fedworld.gov/pub/irs-drop/n-01-40.pdf. The Notice 2001-40 was issued on 07-Jun-01 00:30 and the hyperlink to this IRS Notice [n-01-40.pdf] can be found at: http://ftp.fedworld.gov/pub/irs-drop/

> *The proponents of this position misread the Code and the Treasury Regulations. Although the proponents acknowledge that section 1 imposes income tax on "taxable income," that taxable income" consists of "gross income" minus deductions (section 63) and that "gross income" is income "from whatever source derived" (section 61), they assert that sections 861 through 865 of the Code and the regulations thereunder (in particular, Treasury regulation section 1.861-8) limit taxable "sources" of income to certain foreign-based activities.*
>
> *That assertion is refuted by the express and unambiguous terms of the Code. Section 61 includes in gross income "all income from whatever source derived." As the Supreme Court stated in **Commissioner v. Glenshaw Glass Co**., 348 U.S. 426, 429 (1955), "Congress applied no limitations as to the source of taxable receipts . . . @. Nothing in sections 861 to 865 of the Code limits the gross income subject to United States taxation to foreign-source income. The rules of sections 861 through 865 have significance in determining whether income is considered from sources within the United States or without the United States, which is relevant, for example, in determining whether a U.S. citizen or resident may claim a credit for foreign taxes paid. See Great-West Life Assurance Co. v. United States, 678 F.2d 180, 183 (Ct. Cl. 1982) (stating that "[t]he determination of where income is derived or 'sourced' is generally of no moment to either United States citizens or United States corporations, for such persons are subject to tax under I.R.C. § 1 and I.R.C. §. 11, respectively, on their worldwide income" and that "[l]ikewise, the income of a resident alien individual is taxed under I.R.C. § 1 without regard to source"). The source rules do not operate to exclude from U.S. taxation income earned by United States persons from sources within the United States. Williams v. Commissioner, 114 T.C. 136 (2000) (rejecting the claim that income was not subject to tax because it was not from any of the sources listed in Treas. Reg. sec. 1.861-8(a)); Aiello v. Commissioner, T.C. Memo. 1995-40 (1995) 2(rejecting the claim that section 861 lists the only sources of income relevant for purposes of section 61).*

YOUR PROPER RESPONSE:

First of all, did you notice that the IRS committed a deliberate typo in their quote from ***Commissioner v. Glenshaw Glass Co.***, whereby you put an @ sign where there should have been a close quote. The IRS, in that Notice, was trying to deceive the reader that their own assertions were actually quoted from the Supreme Court. You want me to believe that the following statement came from the Supreme Court, when in fact it does not because we looked up the case:

> *Nothing in sections 861 to 865 of the Code limits the gross income subject to United States taxation to foreign-source income. The rules of sections 861 through 865 have significance in determining whether income is considered from sources within the United States or without the United States, which is relevant, for example, in determining whether a U.S. citizen or resident may claim a credit for foreign taxes paid.*

More IRS deception. The close quote should appear where the @ sign was based on reading the case. Secondly, the ***Glenshaw*** case was about the following issue quoted directly from that case:

> *The common question is whether money received as exemplary damages for fraud or as the punitive two-thirds portion of a treble-damage antitrust recovery must be reported by a taxpayer as gross income under 22 (a) of the Internal Revenue Code of 1939.*

The party to that case was *not* arguing the 861 position, and as a matter of fact, the case dealt with an older version of the code with different section numbers.

Next, we note that the most authoritative cite they have at the end of the article is from T.C. Memos, which may ***NOT*** be cited to apply generally to all Americans as per their own Internal Revenue Manual section 4.10.7.2.9.8:

> *"Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *Certain court cases lend more weight to a position than others.* ***A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.*** *Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*
> *[IRM, 4.10.7.2.9.8 (05/14/99)]*

More IRS deception. So clearly, the only thing we can rely on in everything they cited above is the Supreme Court ***Glenshaw*** case. In that case, the court did not mention whether the party involved was a *citizen* or a *nonresident* alien. As we repeatedly suggest throughout this book, it's important to renounce one's "U.S.** citizenship" and become a nonresident alien and a "U.S. national" to escape the reach of the tax "imposed" in 26 U.S.C. §1. Based on the way they treated this party, we have to assume that he was a "U.S.** citizen" who therefore had no Constitutional rights.

Moving on, the ***Glenshaw*** court stated:

> *The sweeping scope of the controverted statute is readily apparent:*
>
> *"SEC. 22. GROSS INCOME.*
>
> *"(a) GENERAL DEFINITION. - `Gross income' includes gains, profits, and income derived from salaries, wages, or compensation for personal service . . . of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income* ***derived from any source whatever****. . . ." (Emphasis added.) 4*
>
> *This Court has frequently stated that this language was used by Congress to exert in this field "the full measure of its taxing power." Helvering v. Clifford, 309 U.S. 331, 334 ; Helvering v. Midland Mutual Life Ins. Co., 300 U.S. 216, 223 ; Douglas v. Willcuts, 296 U.S. 1, 9 ; Irwin v. Gavit, 268 U.S. 161, 166 . Respondents contend that punitive damages, characterized as "windfalls" flowing from the culpable conduct of third parties, are not within the scope of the section.* ***But Congress applied no limitations as to the source of taxable receipts, nor restrictive [348 U.S. 426, 430] labels as to their nature.*** *And the Court has given a liberal construction to this broad phraseology in recognition of the intention of Congress to tax all gains except those specifically exempted. Commissioner v. Jacobson, 336 U.S. 28, 49 ; Helvering v. Stockholms Enskilda Bank, 293 U.S. 84, 87 -91. Thus, the*

> *fortuitous gain accruing to a lessor by reason of the forfeiture of a lessee's improvements on the rented property was taxed in Helvering v. Bruun, 309 U.S. 461 . Cf. Robertson v. United States, 343 U.S. 711 ; Rutkin v. United States, 343 U.S. 130 ; United States v. Kirby Lumber Co., 284 U.S. 1 . Such decisions demonstrate that we cannot but ascribe content to the catchall provision of 22 (a), "gains or profits and income derived from any source whatever." The importance of that phrase has been too frequently recognized since its first appearance in the Revenue Act of 1913 5 to say now that it adds nothing to the meaning of "gross income."*

The key to deciphering what was said here lies in the definition of "source" and in what context it is used. The question is:

Does the word "source" used here by the U.S. Supreme Court mean:

1. The "source" (or taxable activities within specific identified jurisdictions, which is also called the *situs* for taxation) of income for the ***government as per 26 U.S.C. 861 and 862***, ***or***…
2. The "source" of income for the *tax payer*?

BIG DIFFERENCE!

If the ***Glenshaw*** case above refers to the *tax payer*, which we believe it does, then what the court really meant is that if you admit to being a "taxpayer" (meaning a person who mistakenly *admits liability* for tax) and if you have *income*, from *wherever you get it* ("whatever tax payer source derived"), then you have to pay income tax on it, and we would agree with that conclusion! However, that is *not* the assertion we are making with the 861 argument or the context we are talking about in the context of the word "source"! We are *not* referring to "sources" of income for the *tax payer*, but the proper situs of taxation (the lawful and constitutional sources of income) for the excise tax called the income tax assessed by the *government*, which is completely different, and which the court did *not* address in the ***Glenshaw*** case cited. 26 U.S.C. Sections 861 and 862 do NOT talk about "sources" of income for the *tax payer*, but "sources" of income (taxation situs) for the *government*. More IRS and government lies and deception.

Concluding that the Supreme Court in the ***Glenshaw*** case was referring to the situs for taxation or sources of income for the *government* leads to some rather absurd and irrational conclusions. For instance it leads us to conclude that:

1. There is no reason for sections 861 (sources within the United States) and 862 (Sources without the United States) to even exist in the tax code, because the "source" (or *situs*) of government income doesn't matter and all sources of income. Lets get rid of these two sections then, OK? Why to they appear in the code and under what circumstances are they used, then?
2. That ***all*** "sources" of *government* income from ***anywhere in the world*** are taxable, including sources in China (try explaining that to the Chinese!). This would expand the situs for taxation by the U.S. government to everyone in every country anywhere in the world, which is clearly an irrational conclusion.

Therefore, the only rational way to interpret the code is to leave sections 861 and 862 intact and to treat them as applying to all *government* sources of income (situs for taxation), and to ensure that the table found in section 5.6.10.4 entitled "Determining Taxable Income from U.S.** Sources" is applied to *every type of income* received to determine whether or not the person in receipt of it is liable for tax. That is exactly what 26 CFR § 1.861-8 does: is it tells Americans how to apply the source rules for government income to every item of gross income he is in receipt of in order to determine whether or not it is taxable and consequently, whether he is a "taxpayer".

5.6.10.9.8 Frivolous Return Penalty Assessed by IRS for those Using the 861 Position[61]

The IRS occasionally blatantly lies to you about your rights, in an attempt to avoid "due process." You ought to be told the truth. The IRS does not want to directly address the 861/"source" issue. They occasionally will try to avoid the issue by threatening to impose a $500 "frivolous return" penalty, supposedly under the authority of 26 U.S.C. § 6702, on some who

[61] Portions from http://www.taxableincome.net/, Larkin Rose.

use the 861/"source" issue to file claims for refund. The IRS' letter states that the courts, including the Supreme Court, have ruled such a position to be "frivolous." This is an ***outright lie***. (They are using a form letter which has nothing to do with the 861/"issue.") Feel free to ask them for a citation of such a ruling, but don't hold your breath waiting to actually get one.

The letter also states that the penalty must be paid in full, *before* the matter can be appealed. Again, this is an ***outright lie***. According to the Treasury regulations, appeals consideration applies to questions regarding "[l]*iability for additions to the tax, additional amounts, and assessable penalties provided under Chapter 68 of the Code* [which includes 26 U.S.C. § 6702]" (26 CFR § 601.106(a)(1)(ii)(c)). And the Internal Revenue Manual agrees, and shows that Appeals consideration can occur ***before*** any payment is made.

> *"8.11.1.10.1 (02-26-1999)*
> ***Processing IRC 6703 Claims for Refund on IRC 6700, 6701, and 6702 Penalties***
> *1.Per IRC 6703, the following procedural rules apply to the penalties under IRC 6700, 6701 and* ***6702****: A.* ***The burden of proof is on the Government****...*
> *4.****IRC 6702*** *provides a $500 penalty for filing a frivolous return. This penalty is not subject to a reasonable cause/basis provision. However,* ***penalties under IRC 6702*** *for returns filed after December 31, 1989,* ***may be appealed under the post-assessment penalty appeal program****."*

> *"8.11.1.7 (02-26-1999)*
> ***Postassessment Penalty Appeal Procedure***
> *1.Except for the penalties listed below [none applicable to 26 U.S.C. § 6702], the Post Assessment Penalty Appeal procedure applies to* ***all*** *assessed additions to the tax, additional amounts and* ***penalties*** *(commonly referred to as penalties) imposed by* ***Chapter 68*** *of the Code [which includes 26 U.S.C. § 6702]...*
> *3.****Assessed penalties may be appealed before or after payment****."*

As you can also see in the citations above, in a meeting regarding a penalty under 26 U.S.C. § 6702, *they* have the burden of proof (see also 26 U.S.C. § 6703). (Since there are no regulations promulgated under 26 U.S.C. § 6702, you might also want to ask to see a delegation order allowing them to impose the penalty at all.) It would be interesting (just as one example) to watch them try to prove that it is "frivolous" to use 26 CFR § 1.861-8 for determining taxable income from sources within the United States, when the Treasury regulations ***specifically and repeatedly state that you should*** use 26 CFR § 1.861-8 "*for determining taxable income from sources within the United States*" (26 CFR § 1.863-1(c)).

Probably the main goal of the IRS is to come up with an excuse to avoid due process altogether, including in-person meetings (which you have the right to record under 26 U.S.C. § 7521). They don't want an administrative record showing that they have no substantive rebuttal. However, their manual shows that the return is to be processed *regardless* of the penalty, so they should not be allowed to get away with ignoring the return, whether they impose the penalty or not. (And this would defeat the whole purpose of their letter, which is to "stonewall" any discussion of the issue.)

> *"[120.1] 10.9 (08-12-1998)*
> ***IRC section 6702***
> *1.IRC section 6702 provides for an immediate assessment of a $500 civil penalty against individuals who file frivolous income tax returns or frivolous amended income tax returns... A frivolous return:...* ***Does constitute a valid return when the Service is able to process the return****."*

For any return, if the Service challenges it, you have a right to an Examination meeting, a meeting with the examiner's supervisor, and if you can't reach an agreement, Appeals consideration (see 26 CFR §§ 601.105, 601.106).

The IRS has a ***lot*** to lose if they address the issue, and not much to lose by making these stupid threats, false accusations, evasions, etc. They are relying on these tactics to scare or intimidate people. Anyone approaching the IRS, expecting them to act like reasonable, honest people, is in for a rude awakening. If they have nothing to lose, they will most likely ignore the law, ignore your rights, and ignore their own published procedures. Basically, the message from the IRS is this:

> *"It is frivolous for you to believe that the federal regulations mean what they say. If you ask us to explain what they mean, or ask us to answer any questions, we will accuse you of breaking the law, threaten to punish you, and then we will refuse to discuss the matter ever again. That is how we 'serve' you."*

If this isn't exactly what you would call "due process of law," you might want to tell that to your "representative" or the "Taxpayer Advocate" (although you may find that neither of those terms is accurate).

Use these links to find your "representatives":
http://www.house.gov
http://www.senate.gov

Here is the "snail mail" address for the "Taxpayer Advocate":

Office of the Taxpayer Advocate
1111 Constitution Avenue, NW
Room 3017, C:TA
Washington, D.C. 20224

5.6.10.9.9 The income tax is a direct, unapportioned tax on income, not an excise tax, so you still are liable for it

IRS OBJECTION: "The income tax is a direct, unapportioned tax on income, not an excise tax. See ***United States v. Collins***, 920 F.2d 619, (10th Cir. 11/27/1990)."

YOUR PROPER RESPONSE: "First of all, this conclusion is in direct conflict with all the rulings of the U.S. Supreme Court related to income taxes. The Supreme Court has consistently ruled that the income tax is an indirect excise tax. See ***Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895)***; ***Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)***; ***Eisner v. Macomber***, 252 U.S. 189 (1920), etc. Secondly, lets just fallaciously assume for the sake of argument that the income tax *is* a direct, unapportioned tax on income. Under such circumstances, it would have to be an ad valorem tax on intangible assets (income or profit received). *If it is an ad valorem tax on intangibles, then the income taxed must be beneficially received within the territorial jurisdiction of the 'United States'*. The case of ***Wheeling Steel Corp. v. Fox, 298 U.S. 193 (1936)*** clearly establishes this requirement:

> *"**We have held that it is essential to the validity of such a tax, under the due process clause, that the property shall be within the territorial jurisdiction of the taxing state**....**When we deal with intangible property, such as credits and choses in action generally**, **we** encounter the difficulty that by reason of the absence of physical characteristics they have no situs in the physical sense, but **have the situs attributable to them in legal conception. Accordingly we have held that a state may properly apply the rule mobilia sequuntur personam and treat them as localized at the owner's domicile for purposes of taxation.** Farmers' Loan & Trust Co. v. Minnesota, 280 U.S. 204, 211 , 50 S.Ct. 98, 65 A. L.R. 1000. And having thus determined 'that in general intangibles may be properly taxed at the domicile of their owner,' we have found 'no sufficient reason for saying that they are not entitled to enjoy an immunity against taxation at more than one place similar to that accorded to tangibles.' Id., 280 U.S. 204 , at page 212, 50 S.Ct. 98, 100, 65 A.L.R. 1000. The principle thus announced in Farmers' Loan & Trust Co. v. Minnesota has had progressive application. Baldwin v. Missouri, 281 U.S. 586 , 50 S.Ct. 436, 72 A.L.R. 1303; Beidler v. South Carolina Tax Commission, 282 U.S. 1 , 51 S.Ct. 54; First National Bank v. Maine, 284 U.S. 312, 328 , 329 S., 52 S.Ct. 174, 177, 77 A.L.R. 1401. But despite the wide application of the principle, an important exception has been recognized."*

The territorial jurisdiction of the United States is limited to areas over which the *sovereignty* (exclusive territorial jurisdiction under Article 1, Section 8, Clause 17 of the U.S. Constitution) of the government of the United States

extends, to include the District of Columbia, federal enclaves within the states, and the territorial waters as per 26 CFR § 301.7701:

> *26 CFR Sec. 301.7701(b)-1 Resident alien*
>
> *(ii) UNITED STATES. For purposes of section 7701(b) and the regulations thereunder, the term "United States" when used in a geographical sense includes the states and the District of Columbia. It also includes the territorial waters of the United States and the seabed and subsoil of those submarine areas which are adjacent to the territorial waters of the United States and over which the United States has exclusive rights, in accordance with international law, with respect to the exploration and exploitation of natural resources. It does not include the possessions and territories of the United States or the air space over the United States.*

IRS Publication 54 for year 2000, entitled *Tax Guide for U.S. Citizens and Aliens Abroad* (which you can download from our website), further helps to clarify the meaning of the territorial jurisdiction of the United States:

> *"A foreign country usually is any territory (including the air space and territorial waters) under the* ***sovereignty*** *of a government other than that of the United States.... The term 'foreign country' does not include Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, or U.S. possessions such as American Samoa."*
>
> *[Emphasis added]*

Consequently, Americans residing on nonfederal land (outside the federal zone) within the borders of the sovereign states are living in a "foreign country" and outside of the territorial jurisdiction of the United States because they are located on land outside the sovereignty of the United States government. Therefore, they *cannot* be the proper subject of a federal ad valorem direct property tax.

5.6.10.9.10 "Source" issues only apply to expenses, and not income

This issue came from page 5 of the very revealing deposition of Larken Rose by the IRS which is posted at:

http://www.taxableincome.net/thugs/transcript.html

This deposition devolved into a debate and Larken really carved them up, and by doing so averted being indicted for 26 U.S.C. §6700 Abusive Tax Shelter criminal charges which were simultaneously levied against three other individuals, including Thurston Bell of Hanover PA, Dave Bossett of FL, and Harold E. Hearn of Atlanta. You can read an article that talks about the indictments at:

http://familyguardian.tzo.com/Subjects/Taxes/News/11120TXE.PDF

IRS OBJECTION: "The vast majority of the regulations under 861 deal strictly with allocating expenses, deductions and credits, but NOT income. The code sections referenced in 26 CFR § 1.861-8(f) are not specifically sources of income, but instead are deductions and allocations."

YOUR PROPER RESPONSE: "The regulations under 26 U.S.C. §861 and 26 U.S.C. §862 specifically contradict that assertion by saying you must use 26 CFR 26 CFR § 1.861-8(f) to determine taxable income both from sources *within* the federal United States and from sources without the federal United States. They don't say you only use this regulation to allocate deductions or expenses. The regulations don't say you only use those sections if you're involved in one of these activities. They say you use those sections, 'for determining taxable income from sources within the United States'. And they say it over and over and over again. You're fishing around in other sections so

you can retroactively back into saying 'well you just use it for this and don't look at it otherwise.' Section 861 does deal with allocating *expenses*, but it is also used for allocating *income* to spectific taxable sources and activites, and the regulations clearly say that. Both *expenses* and *income* **must** be allocated to the *same source*, either within or without, in order to derive taxable income for that source, and 26 U.S.C. §863 does most of that allocation. Total taxable income equals the taxable income from sources *within* the federal United States plus taxable income from sources *without* the federal United States. If you are going to assert that the *only* thing that 26 U.S.C. §861 does is allocate expenses, then why don t you show me a regulation or statute that says 861 and 862 are only used for allocating expenses, instead of both expenses *and* income. You won't be able to find one because there isn't one! You're trying to confuse the legal issues because your paycheck relies on people not understanding the law."

5.6.11 The Nonresident Alien Position

The nonresident alien position is easier and simpler to defend than the 861 source position. It revolves around the idea that natural persons residing in nonfederal areas of the 50 states are "nonresident aliens" with respect to the Internal Revenue Code and the [federal] "United States**" and therefore have no "U.S." source income unless they work for the U.S. government as elected or appointed persons holding public office. Within the Internal Revenue Code, the term "nonresident alien" is a "word of art", which means a term that has a special use different from what common sense and common usage might dictate. This situation is similar to the definition of the term "employee" in the Internal Revenue Code, which means an elected or appointed political official of the U.S. government (see 26 U.S.C. 3401(c) and 26 CFR § 31.3401(c)). The terms "alien" and "nonresident alien" are defined in 26 CFR § 1.1441-1(f):

> ***26 CFR 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).***
>
> *(ii) Nonresident alien individual.*
>
> *The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, 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 Sec. 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.*

If you look at the above two definitions carefully, which incidentally are the *only* definitions of "individual", "alien", and "nonresident alien" found in 26 CFR, you will notice that a natural person who lives inside the 50 sovereign states and outside of the federal zone can be a "nonresident alien" without being an "alien", which at first glance would appear to be a contradiction. How can a person be a "nonresident alien" without being an "alien"? Because "nonresident alien" is defined in 26 U.S.C. §7701(b)(1)(B) as someone who is *not* a "U.S. citizen", which is exactly what a "U.S. national" is! Because of the definition of "alien" found in 26 CFR § 1.1441-1(c)(3)(i) above, that same "U.S. national" can't be a "alien", because "aliens" cannot be "U.S. nationals" or "U.S. citizens"! Our deceitful federal government has once again tried to confuse sovereign citizens so that would discount being one based on a statement something like the following:

> *A reasonable person would conclude that they can't be an alien in their own country, and therefore I can't be a nonresident alien. It's ludicrous to even think that I could.*

If Congress had been completely honest about their definitions, they would have added one additional term to the two terms above and called it "U.S. national" and replaced the term "nonresident alien" with "nonresident foreigners" to make it clearer, but then they would have given away their ruse and showed the average American that they aren't liable for income tax unless they have gross income from U.S.** sources that falls under 26 CFR § 1.861-8(f), which most people don't!

Pivotal to the nonresident alien position is the definition of the "income" (see section 5.6.3 earlier) and our identity as "natural persons" and not federal corporations. The term "nonresident alien" in the context of federal income taxes can also encompass those persons who are state but not federal citizens. However, one can be a state only or "natural born sovereign state citizen" and still be a national of their country while not being a federal or "U.S. citizen". These people are correctly referred to as "U.S. nationals".

We hear a lot of questions along the following lines:

> *"Well why does it matter whether I'm a 'U.S. citizen' or a 'nonresident alien' anyway? Either way I'm **not liable** for income tax because there is no liability statute or implementing regulations permitting enforcement of Subtitle A income taxes imposed in 26 U.S.C. Section 1."*

Very good question! We respond to this prudent observation by stating that there is *absolutely no advantage* to being a federal/U.S.** citizen *and a BIG disadvantage* because *once we volunteer to become "U.S. citizens", we volunteer to be **completely subject to the jurisdiction of the U.S. government and the federal courts***! If you have read this far, you have realized that our federal government is corrupt and covetous of getting into our pocket and plundering as much of our assets as it can get it's paws on. Why open the door wide enough to let this rabid cat out of the bag that could destroy our lives and our liberties if we don't have to? Prudence demands that we provide as many protections as we possibly can for our liberties by staying as far away from federal and any kind of government jurisdiction or influence as we can! Any other approach is *pure stupidity* and a big mistake! ***Crosse v. Bd. of Supervisors***, 221 A.2d 431 (1966) says about this subject:

> *"Both before and after the Fourteenth Amendment to the federal Constitution, it has not been necessary for a person to be a citizen of the United States in order to be a citizen of his state." Citing **U.S. v. Cruikshank**, supra.*

A "U.S. national", a state only citizen, a Natural Born Sovereign, and a "nonresident alien" are therefore the best things we can be because this will give our liberties the *most protections* from the encroachments of greedy Congressmen, unscrupulous IRS agents, and corrupt federal judges, all of which are the dregs of society and the "sinners", as Jesus describes them. This fits very nicely in with the scripture we quote in section 8.5.3 under "Making Yourself Judgment Proof", which states:

> *"A prudent man foresees evil and hides himself, but the simple pass on and are punished. By humility and fear of the Lord are riches and honor and life. Thorns and snares are in the way of the perverse; he who guards his soul will be far from them." Prov. 22:3*

5.6.11.1 How To Legally Become A Nonresident Alien

We declare ourselves to be nonresident aliens for the purposes of federal income taxes by: 1. Expatriating from the "federal zone" and renouncing our "U.S.** citizenship"; 2. Filling out an IRS form W-8 and providing it to our employer; 3. Then subsequently only filing IRS form 1040NR's as required and paying taxes of 30% on income not derived from a "trade or business in the United States**" from sources *within* the United States** based on 26 U.S.C. §871(a). Nonresident aliens pay tax on a graduated scale for income derived from a "trade or business" in the United States (U.S.** public office) in accordance with 26 U.S.C. §871(b). When we declare ourselves as nonresident aliens, we should also be careful to properly change our citizenship status as indicated in section 8.5.3.13. Familiarity with the 861 argument is crucial for

those using the nonresident alien argument who are U.S. government employees and who do not want to have to pay tax on their income. That is why we put the 861 position first in this chapter.

For more information on the nonresident alien position, refer to section 5.3 and following. Below are a few quotes that help explain succinctly the basis for the nonresident alien position. These quotes appear, for instance, in the Revocation of Election letter found in Section 15.5.5:

> *"The United States government is a foreign corporation with respect to a state."*
> ***N.Y. re: Merriam**, 36 N.E. 505, 141 N.Y. 479, Affirmed 16 S.Ct. 1973, 41 L.Ed. 287*

> *"State: The term "State" shall be construed to include the* ***District of Columbia****, where such construction is necessary to carry out provisions of this title." 26 U.S.C. §7701*

> ***"United States**: The term "United States" when used in a geographical sense includes [is limited to] only the States [the District of Columbia and other federal territories within the borders of the states] and the District of Columbia." 26 U.S.C. §7701*

> *"A canon of construction which teaches that of Congress, unless a contrary intent appears, is meant to apply* ***only within the territorial jurisdiction of the United States****."*
> ***U.S. v. Spelar**, 338 U.S. 217 at 222 (1949)*

> *"The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States ex- [324 U.S. 652, 672] tends, or it may be the collective name of the states which are united by and under the Constitution."* ***Hooven & Allison Co. v. Evatt**, 324 U.S. 652 (1945).*

> *Foreign government: "The government of the United States of America, as distinguished from the government of the several states." (Black's Law Dictionary, 5th Edition)*

> *Foreign Laws: "The laws of a foreign country or sister state." (Black's Law Dictionary, 6th Edition)*

> *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, 6th Edition)*

> ***Treasury Definition 3950, Vol. 29, January-December, 1927, pgs. 64 and 65** defines the words **includes** and **including** as: "(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."*

> *"**Includes** is a word of **limitation**. Where a **general term** in Statute is followed by the word, '**including**' the primary import of the specific words following the quoted words is to indicate restriction rather than enlargement. **Powers ex re. Covon v. Charron R.I.**, 135 A. 2nd 829, 832 Definitions-Words and Phrases pages 156-156, Words and Phrases under '**limitations**'."*

> *"In the interpretation of **statutes levying taxes**, it is the established rule **not to** extend their provisions by implication beyond the clear import of the language used, or to*

> *enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the government and in favor of the citizen." **Gould v. Gould**, 245 U.S. 151, at 153 (1917).*

> *"Almost a century ago, Congress declared that "**the right of expatriation [including expatriation from the District of Columbia or "U.S. Inc", the corporation] is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness,**" and decreed that "**any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.**" 15 Stat. 223-224 (1868), R.S. § 1999, 8 U.S.C. § 800 (1940).[62] Although designed to apply especially to the rights of immigrants to shed their foreign nationalities, that Act of Congress "is also broad enough to cover, and does cover, the corresponding natural and inherent right of American citizens to expatriate themselves." **Savorgnan v. United States**, 1950, 338 U.S. 491, 498 note 11, 70 S. Ct. 292, 296, 94 L. Ed. 287.[63] The Supreme Court has held that the Citizenship Act of 1907 and the Nationality Act of 1940 "are to be read in the light of the declaration of policy favoring freedom of expatriation which stands unrepealed." Id., 338 U.S. at pages 498-499, 70 S. Ct. at page 296.That same light, I think, illuminates 22 U.S.C.A. § 211a and 8 U.S.C.A.§ 1185." **Walter Briehl v. John Foster Dulles, 248 F2d 561, 583 (1957)**.*

The hardest part for most people is completing the IRS form W-8 or W-8BEN, which is the form you have to submit to a bank, employer, or financial institution declaring yourself to be a nonresident alien and thereby eliminating the need to withhold on your income. The problem they have is with the definition of the term "nonresident alien" on the W-8BEN form, which is:

> ***Any individual who is not a citizen or resident of the United States is a nonresident alien individual.** An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual.*
>
> *Additionally, an alien individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual. See Pub 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.*

IRS publication 519, Tax Guide for Aliens says the following, which clarifies this:

> *If you are an alien (not a U.S. citizen), you are considered a nonresident alien unless you meet one of the two tests described next under Resident Aliens.*

What you need to remember is that if you follow the procedures we give to expatriate your federal citizenship/"U.S.** citizen" status found in section 8.5.3.13, then you become an "alien" for the purposes of the tax code. Once you become an alien, you regain your constitutional rights and simultaneously deprive the federal government of jurisdiction over you. That is why we say that this step is VERY IMPORTANT!

IRS publication 519, after the above clarification of the definition of "alien", then talks about the two tests, which include the "Green Card Test" and the "Substantial Presence Test". People look at the Substantial Presence Test and erroneously conclude that they pass the test and thereby qualify as resident aliens. They point to IRS Pub 519, which states that the term "United States" includes the 50 states. This is true, but misleading. ***The term "United States" includes federal***

[62] See Carrington, Political Questions: The Judicial Check on the Executive, 42 Va.L.Rev. 175 (1956).
[63] 9 Pet. 692, 34 U.S. 692, 699, 9 L. Ed. 276.

enclaves within the 50 states but NOT nonfederal areas! Furthermore, one is a "U.S.** citizen" by law if they were born or naturalized in the federal zone but NOT the nonfederal areas of the 50 states. The Fourteenth Amendment section 1 states the following:

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

The U.S. Supreme Court has clearly defined the meaning of the phrase "*and subject to the jurisdiction thereof*" in ***Elk v. Wilkins, 112 U.S. 94 (1884)***:

> **"The persons declared to be citizens are ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF. The evident meaning of these last words is, not merely subject in some respect or degree to the jurisdiction of the United States, but COMPLETELY SUBJECT [e.g., under Article 1, Section 8, Clause 17 of the Constitution]** *to their political jurisdiction, and owing them direct and immediate allegiance. And the words relate to the time of birth in the one case, as they do to the time of naturalization in the other.* ***Persons not thus subject to the jurisdiction of the United States at the time of birth cannot become so afterwards, except by being naturalized, either individually, as by proceedings under the naturalization acts; or collectively****, as by the force of a treaty by which foreign territory is acquired. Indians born within the territorial limits of the United States, members of, and owing immediate allegiance to, one of the Indiana tribes, (an alien though dependent power,) although in a geographical sense born in the United States, are no more 'born in the United States and subject to the jurisdiction thereof,' within the meaning of the first section of the fourteenth amendment, than the children of subjects of any foreign government born within the domain of that government, or the children born within the United States, of ambassadors or other public ministers of foreign nations.* **."**

Being "COMPLETELY SUBJECT to the jurisdiction" at the time of birth means being born in a federal enclave, territory, or possession of the United States (e.g. the "federal zone") subject to the *sovereignty* of the United States and outside the territorial jurisdiction of any state under Article 1, Section 8, Clause 17 of the U.S. Constitution. Now the above considerations *do not* preclude people from electing to be "U.S.** citizens", which the federal government loves to do because that is how they become "taxpayers"! Technically, and by law, however, you aren't a "U.S.** citizen" (also called a federal citizen or a 14th Amendment citizen) unless you are born on federal property subject to the sovereignty of the United States government. Quite clearly, most people have never been "U.S.** citizens", but instead are "U.S.*** nationals" under the following statutes:

- 8 U.S.C. §1408
- 8 U.S.C. §1101(a)(21) through 8 U.S.C.. §1101(a)(22)

Because of these considerations, it's clear that there is IRS deception going on with IRS form W-8BEN. "United States", in the context of *natural persons*, **cannot** include *nonfederal areas* of the 50 states because of constitutional prohibitions against direct taxes found in Article 1, Section 9, Clause 4 and Article 1, Section 2, Clause 3 of the U.S. Constitution. Remember!:

> You should NOT and CANNOT rely on fraudulent IRS publications, including the W-8 for W-8BEN, to sustain a position or a good-faith belief, or even a fact, and therefore you should *not* assume that "United States" includes non-federal areas within the 50 states. This is covered extensively in section 3.15 of The Great IRS Hoax. Because you can't rely on IRS Publications or forms to sustain a position, then you have no choice but to rely on the law, which includes the Internal Revenue Code and the Treasury Regulations found in 26 C.F.R. The law is so ambiguous that it is "Void for Vagueness" (as we conclude in section 5.10) and there is no way for you to

determine your liability or even if you are truthfully answering the questions on forms that don't even define the terms they are using. And even if they defined the terms, you couldn't trust them!

Another interesting fact to consider when you fill out your W-8 or W-8BEN form is that the entire Internal Revenue Code *does not* define the term "individual" to mean "natural person"! The closest it comes is in 26 U.S.C. §7701(a)(1), where it defines "person" to include "individual" but not *natural person*, which is the proper legal term. The word "individual" is then never defined anywhere in the Internal Revenue Code, so we have to use the legal definition. If we look up the definition of "individual" in Black's Law Dictionary, Sixth Edition, page 773, we find:

> ***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 artificial persons.***

So naming "individuals" as "persons" liable for tax in 26 U.S.C. §7701(a)(1) *still* doesn't imply *natural persons* like you and me, and according to the above legal definition, "individual" most commonly refers to *artificial* persons, which in this case are federal corporations and partnerships as we said earlier in this chapter. The only thing Congress has done by using the word "individual" in the definition of "person" is create a circular definition. Such a circular definition is also called a "tautology": a word which is defined using itself, which we would argue doesn't define anything! If Congress wants to include natural persons as those liable for the income tax, then they must *explicitly say so* or a Internal Revenue Code is void for vagueness. At least the California Revenue and Taxation Code defines it correctly:

> *17005. "Individual" means a natural person.*

Since we can't find the definition in the Internal Revenue Code, then it must be buried somewhere in the regulations. After searching all 17,000 pages of the the regulations (26 CFR) electronically, below is the *only* definition of "individual" we could find, which also appeared earlier in section 5.5.1:

> ***26 CFR 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).***
>
> *(ii) Nonresident alien individual.*
>
> *The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, 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 Sec. 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.*

There you have it, if you aren't a U.S. citizen, the only other thing you can be is a nonresident alien and still be the "individual" mentioned in 26 U.S.C. §7701(a)(a) who is the subject of the income tax in Subtitle A! If the Internal Revenue Code was written unambiguously, then it would define "Individual" to mean only federal corporations or federal partnerships, which is why they chose to define it ambiguously in the first place!

Investigating this matter of the definition of "person" further, we find that there is a *dead pointer* in 4 U.S.C. 110(a) which points to a repealed 26 U.S.C. §3797 definition of the term "person". You can't know whether you , as a "natural person" fit the description of "person" found in the tax code unless and until it is clearly and unambiguously defined to mean "*natural person"*, which it is not anywhere in subtitles A through C. The closest realistic thing we have to a definition of the term "person" is in 26 CFR § 301.6671-1, which defines who penalties may be levied against under Subtitle F of the Internal Revenue Code:

> *[Code of Federal Regulations]*
> *[Title 26, Volume 17, Parts 300 to 499]*
> *[Revised as of April **1**, 2000]*
> *From the U.S. Government Printing Office via GPO Access*
> *[**CITE**: **26CFR301.6671-1**]*
> *[Page 402]*
> *TITLE 26--INTERNAL REVENUE*
> *Additions to the Tax and Additional Amounts--Table of Contents*
> *Sec. 301.**6671-1** Rules for application of assessable penalties.*
> *...*
> *(b) Person defined. For purposes of subchapter B of chapter 68,* ***the term ``person'' 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.***

The reason the government won't define the term "person" is because the U.S. Supreme Court in ***Eisner v. Macomber***, 252 U.S. 189 (1920) ruled the following, which defines clearly that the true meaning of "person" in the tax code is "federal corporation":

> *"In order, therefore, that the [apportionment] clauses cited from article 1 [§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 an what is not 'income,'...according to truth and substance, without regard to form.* ***Congress cannot by any definition it may adopt conclude the matter, since it cannot by legislation alter the Constitution, from which alone, it derives its power to legislate, and within those limitations alone that power can be lawfully exercised****... [pg. 207]...After examining dictionaries in common use 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] and* ***Doyle v. Mitchell Bros. Co.****, 247 U.S. 179, 185, 38 S.Sup.Ct. 467, 469, 62 L.Ed. 1054..."*
>
> *[emphasis added]*

Among the cases referred to above in *Eisner* in the definition of "income" included the case of ***Doyle v. Mitchell Brothers Co.***, 247 U.S. 179, 185, 38 S.Ct. 467 (1918) , which further helps us define the term "income" and who the "person" is that is liable for tax on that income.

> *"...Whatever difficulty there may be about a* ***precise scientific definition of 'income****,' it imports, as used here, something entirely distinct from principal or capital either as a*

> *subject of taxation or as a measure of the tax;* ***conveying rather the idea of gain or increase arising from corporate activities****."*
>
> ***Doyle v. Mitchell Brothers Co.****, 247 U.S. 179, 185, 38 S.Ct. 467 (1918)*
>
> *[emphasis added]*

And to put the nail in the coffin, here is the final case cited in *Eisner*, that of ***Stratton's Independence v. Howbert***, 231 U.S. 399, 414, 58 L.Ed. 285, 34 Sup.Ct. 136 (1913):

> *"This court had decided in the Pollock Case that the income tax law of 1894 amounted in effect to a direct tax upon property, and was invalid because not apportioned according to populations, as prescribed by the Constitution. The act of 1909 avoided this difficulty by imposing not an income tax, but an* ***excise tax upon the conduct of business in a corporate capacity****, measuring, however, the amount of tax by the income of the corporation…* ***Flint v. Stone Tracy Co****., 220 U.S. 107, 55 L.Ed. 389, 31 Sup.Ct.Rep. 342, Ann. Cas."*

When the Supreme Court says above that "income" means corporate profit, it means corporate profit from *federal corporations*. State-chartered corporations are *exempt*, because the Supreme Court has ruled that the income tax is an indirect excise tax on privileges. To tax a government privilege requires *receipt* of the privilege, and state corporations do *not* receive privileges, including the privilege of existing, from the federal government. Furthermore, even though the income tax is an indirect excise tax on privileges, *it becomes a direct tax if it is levied upon natural persons*, even if these persons are in receipt of privileges! A tax cannot be indirect unless it is levied on businesses and other artificial entities other than natural persons. Such artificial entities, according to the U.S. Supreme Court, can *only* be federal corporations.

After studying the nonresident alien issue exhaustively, we reiterate the very important table found in section 5.2.1, which clearly establishes jurisdiction of the Federal government.

Table 5-18: Limits of U.S. Sovereignty by Subject Matter

#	*Subject matter*	*Legal reference*	*"Federal zone" Jurisdiction? (U.S.**)*	*Sovereign 50 states jurisdiction? (nonfederal areas, U.S* or U.S.***)*
1	Immigration and naturalization	Constitution 1:8:4	YES	YES
2	Regulate/tax foreign commerce (excises on ***imports***)	Constitution 1:8:3	YES	YES
3	Tax exports from sovereign states	Constitution 1:9:5	NO	NO
4	Coining money and punishing counterfeiting	Constitution 1:8:5	YES	YES
5	Establish military, forts, magazines	Constitution 1:8:12 thru 1:8:16	YES (on land ceded to U.S.** by states)	NO
6	Subtitle A-C personal income taxes on natural persons	Constitution 1:2:3 and 1:9:4 26 U.S.C. §7701(a)(9) 26 U.S.C. §77019)(a)(10) U.S. v. Spelar, 338 U.S. 217 (1949)	YES	NO
7	Subtitle A-C personal	Constitution 1:8:1 and	YES	YES

#	*Subject matter*	*Legal reference*	*"Federal zone" Jurisdiction? (U.S.**)*	*Sovereign 50 states jurisdiction? (nonfederal areas, U.S* or U.S.***)*
	income taxes on federal Corporations	1:8:3		
8	Subtitle D and E excise taxes on U.S.** chartered licenses and corporations *only*	Constitution 1:8:1 and 1:8:3	YES	YES

EXAMPLE: 1:9:4=Article 1, Section 9, Clause 4 of the U.S. Constitution.

NOTE: The federal government may only reach inside the borders of a sovereign state for the sake of enforcing areas over which the government has *subject matter jurisdiction*, because it cannot have territorial jurisdiction and cannot be sovereign there. Sovereignty is only exercised when the type of jurisdiction is exclusively territorial. This point is very important to remember when you read the Constitution.

Items #6 and 7 above clearly establishes the lack of jurisdiction of the federal government to tax natural persons outside of the federal zone. The feds only have jurisdiction to tax federal corporations outside the federal zone, but no natural persons. That is why the term "United States" found on the W-8BEN form cannot mean nonfederal areas inside the 50 states if the person completing the form is other than a federal corporation. Sneaky, huh?

How does the government trick us into losing our true nonresident alien status? Because the U.S. government knows that all Americans born in the 50 states living on nonfederal land are nonresident aliens with respect to the Internal Revenue Code over which they have no jurisdiction to assess Subtitles A, B, and C income taxes, they have devised an ingenious scheme to scare all these sheep, I mean people, into their jurisdiction so they can be abused if they don't pay income taxes they otherwise wouldn't owe. Here's their trick:

1. They define a flat 30 percent for income from "within the United States" (the federal zone). See 26 U.S.C. Section 871(a) for the place where this 30 percent tax is defined.
2. They fool everyone into thinking that they are living in the "United States" by never defining the term on their website or in any of their publications, and denying the proper definition when people question them about it.
3. They define a lower, graduated tax rate for people who file an IRS form 1040 which is less for most natural persons than the flat 30% you would pay if you continued claiming your true status as a nonresident alien and filing the form 1040NR. See 26 U.S.C. Section 1(b) for the definition of this graduated tax rate.
4. They then fill the post office with 1040 forms and don't provide the more correct 1040NR forms and booklets, which is the correct form for most Americans.
5. They then go around, hand in hand with the American Bar Association, to all the public schools, waving their fists with a lawyer by their side and telling innocent teenagers who are just starting in the workforce that they MUST pay taxes and that they HAVE to file a form 1040 like everyone else. See section 1.10.3 for a description of how they do this, right off the IRS website. They don't tell these innocent kids what filing this form means, which is that once they file this form and get a Socialist Security Number, they are transformed into SLAVES of their own government because they are making an election to treat their income as "effectively connected with a trade or business in the United States", which is a code word for saying that they are a U.S. Congressman who lives in the District of Columbia! Once the kids achieve that substandard status, there is no way to deny that the federal courts have jurisdiction over these formerly private citizens, and they are trapped until they revoke their election. Cleverly, the IRS and no one in the government tells them in the 1040 booklet or in anything else they would be likely to read how to revoke that election. Does this sound like the pied piper? Sure does to us!
6. Because people want to save money and pay the lowest tax rate, they file the *wrong* tax form (the 1040 form instead of the 1040NR) and thereby volunteer into the jurisdiction of the federal government by filing their first 1040 form. The top of the form says they are a "U.S. Individual", which implies that they are a resident of the District of Columbia or any other federal property. This means their goose is cooked because now they come under the territorial jurisdiction of the federal courts. Once you sign that 1040 form under penalty of perjury, you become a witness against yourself in violation of your Fifth Amendment rights. You also become a substandard 14th Amendment corporate citizen and

ward of the federal government, which is a status reserved for SLAVES following the civil war under the Fourteenth Amendment, but not something anyone else wants to be or needs to be. To make things worse, in the process of writing off your children as tax deductions for a tax you don't owe, you also in effect have to sell your children into slavery too by giving them Social Security Numbers and claiming they are U.S. citizens! Look at the 1040, and you will find that you can't write off your children unless they have SSN's and you claim them as U.S. (14th Amendment) citizens.

7. Since the Fifth Amendment allows us to not be compelled to incriminate ourselves by filling out things we don't want to put on a tax return, the IRS sets the withholding rate so that most people will get refunds at the end of the year. This provides an incentive for people to file returns and complete them when they otherwise would not. In effect, they have made it into a "privilege" to get our money back which requires us to surrender our privacy and waive our Fifth Amendment rights to get the money owed to us in the refund.
8. After these people are transformed into federal serfs by becoming unwitting "U.S. citizens" (in what we refer to as a conspiracy against rights), if they get out of line, IRS computers harass and intimidate them, treating them in most cases as businesses (look in your IMF file to verify this for yourself) and making up bogus liabilities to fill their IMF file. The IRS also keeps them in line by threatening penalties that only corporations and partnerships, technically, are liable to pay, but they don't tell you that (see 26 CFR § 301.6671-1(b) if you don't believe us) at:

http://squid.law.cornell.edu/cgi-bin/get-cfr.cgi?TITLE=26&PART=301&SECTION=6671-1&TYPE=TEXT

Doesn't this make you mad? It's a fraud and it's ***downright EVIL***! It's all done because the government loves your money more than they respect your constitutional rights. It amounts to a "conspiracy against rights", which is a crime under 18 U.S.C. §241. We believe it is this very scheme that explains why Congress has put the IRS at arm's length by not having any federal statute or documented legal delegated authority that traces the activities of the IRS directly back to them? They do this to evade liability or being prosecuted if the lid ever blows on this organized crime ring.

5.6.11.2 Tax Liability and Responsibilities of Nonresident Aliens

We assembled the table below to succinctly summarize the tax situation of nonresident aliens to help you better understand the benefits of becoming a nonresident alien:

Table 5-19: Tax Liability and Responsibilities of Nonresident Alien

#	*Right/responsibility*	*Applicable law(s)*	*Text of law(s)*	*Explanation*
1	Only elected or appointed public officials make wages, but nonresident aliens don't	26 U.S.C. §3401 26 CFR § 31.3401(c)-definition of "employee"	(a) For the purposes of this chapter, the term wages means all remuneration (other than fees paid to a public official) for services performed by an employee [an elected or appointed public official] to his employer…except that such term shall not include remuneration for: (6) such services, performed by a nonresident alien individual.	See 26 U.S.C. §3401(a)(6).
2	Do not need to file returns	26 U.S.C. §6012(1954 Code)(a)	Returns with respect to income taxes under subtitle A…(5) …nonresident alien individuals not subject to the tax imposed by §871…may be exempted from the requirement to making returns.	Later versions of IRC section 6012 deliberately add more indirection and confusion to the explanation of the requirement to file by saying that those having "gross income" not exceeding the exemption amount plus the standard deduction don't need to file. Congress used the term "gross income" instead of "taxable income" to make the situation even more difficult for the average person to figure out. Earlier versions of the code were much clearer and much more honest.
3	Income from the 50 states is not subject to withholding and need not file returns.	26 CFR § 1.1441-3(a)	Exceptions and rules of special application. (a) Income from sources without the United States.—"to extent that items of income constitute gross **income from sources without the United States**, they are **not subject to withholding**."	Not subject to tax withholding imposed by 26 U.S.C. §871.
4	Are not required to have a Taxpayer ID Number unless they have taxable income.	26 CFR § 301.6109-1(g)	26CFR §301.6109-1(b)(2) Foreign persons. The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons-- (i) A foreign person that has income effectively connected with the conduct of a U.S. trade or business at any time during the taxable year;	Can change their SSN status into "nonresident alien" by filing W-8 with the IRS if they already have an SSN. If they don't have an SSN and/or if they get a Taxpayer Identification Number (TIN)

#	*Right/responsibility*	*Applicable law(s)*	*Text of law(s)*	*Explanation*
			(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year; (iii) A nonresident alien treated as a resident under section 6013(g) or (h); (iv) A foreign person that makes a return of tax (including income, estate, and gift tax returns), an amended return, or a refund claim under this title but excluding information returns, statements, or documents; (v) A foreign person that makes an election under Sec. 301.7701-3(c); and (vi) A foreign person that furnishes a withholding certificate described in Sec. 1.1441-1(e)(2) or (3) of this chapter or Sec. 1.1441-5(c)(2)(iv) or (3)(iii) of this chapter to the extent required under Sec. 1.1441-1(e)(4)(vii) of this chapter. … (g) Special rules for taxpayer identifying numbers issued to foreign persons--(1) General rule--(i) Social security number. **A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.** (ii) Employer identification number. An employer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. person. However, the Internal Revenue Service may establish a separate class of employer identification numbers solely dedicated to foreign persons which will be identified as such in the records and database of the Internal Revenue Service. A person may establish a different status for the number either at the time of application or subsequently by providing proof of U.S. or foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. The Internal Revenue Service may require a person to apply for the type of employer identification number that reflects the status of that person as a U.S. or foreign person. (iii) IRS individual taxpayer identification number. An IRS individual taxpayer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a nonresident alien individual. If the	from the IRS instead, then this is evidence of their nonresident alien status.

#	*Right/responsibility*	*Applicable law(s)*	*Text of law(s)*	*Explanation*
			Internal Revenue Service determines at the time of application or subsequently, that an individual is not a nonresident alien individual, the Internal Revenue Service may require that the individual apply for a social security number. If a social security number is not available, the Internal Revenue Service may accept that the individual use an IRS individual taxpayer identification number, which the Internal Revenue Service will identify as a number belonging to a U.S. resident alien. (2) Change of foreign status. Once a taxpayer identifying number is identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. or foreign person, the status of the number is permanent until the circumstances of the taxpayer change. A taxpayer whose status changes (for example, a nonresident alien individual with a social security number becomes a U.S. resident alien) must notify the Internal Revenue Service of the change of status under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify.	
5	File a W-8 "Certificate of Foreign Status" with employer instead of a W-4, and do so every three years. Do NOT submit the form to the IRS.		The W-8 form says: *"Use Form W-8 or a substitute form containing a substantially similar statement to the payer..that you are a nonresident alien individual, foreign entity, or exempt foreign person not subject to certain U.S. information return reporting or backup withholding rules."*	The W-8 form should also be used to open a bank account. If you have a W-8 bank account, no taxes can ever be withheld and, without a Social Security Numbered account, the IRS and other arms of the federal government have NO AUTHORITY to ever seize any of your funds. **WARNING**: DO NOT file an IRS W-8BEN because the instruction for the form define a "BENEFICIAL OWNER" as someone who is "*required under U.S. tax principles to include the income in gross income on a tax return*", which is clearly NOT the case! Since nonresident aliens don't have to file returns or pay taxes, then admitting to being a "beneficial owner" admits to being a citizen who is a taxpayer who has to file and pay tax, which most nonresident aliens are *not*. Instead, you should create your own substitute W-8BEN form that redefines "beneficial owner" or use the older W-8 form as we describe in section 6.4.9. We have a

#	*Right/responsibility*	*Applicable law(s)*	*Text of law(s)*	*Explanation*
				substitute W-8BEN form that has been "defanged" on our website, under "Income Tax Freedom Forms and Instructions".
6	Exempt from self-employment income	26 U.S.C. §1402(b) 26 CFR § 1.1402(b)-1(a)	SELF EMPLOYMENT INCOME—The term "self employment income" means the earnings from self-employment derived by an individual, **other than an individual…**" **"Nonresident aliens**. A nonresident alien individual never has self-employment income."	
7	Must file Affidavit of Citizenship and Domicile with Employer	8 Fed. Register Pg. 12266 §404.102(g)		
8	Must file with employer an IRS Form 6450-Questionaire to Determine Exemption from Withholding.			IRS will tell employer not to honor your form if you don't.
9	Must file a state Exemption from Withholding form			In California, this is an FTB form 590.

1

5.6.11.3 Tricks Congress Pulled to Undermine the Nonresident Alien Position

The Nonresident Alien position can be a losing position in federal court if you don't know what you are doing. Congress knows that the nonresident alien position is a good way to get out of tax liability, so they put a statutory roadblock in front of patriots who try to use it. This roadblock guarantees that those who don't know what they are doing will lose in federal court. That roadblock is 28 U.S.C. §2201 as follows, and it prevents federal courts from deciding on state and federal citizenship and the rights related to these in regards to taxes when cases are heard in federal courts!:

> *United States Code*
> *TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE*
> *PART VI - PARTICULAR PROCEEDINGS*
> *CHAPTER 151 - DECLARATORY JUDGMENTS*
> *Sec. 2201. Creation of remedy*
>
> *(a) **In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986**, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, **any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration**, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.*
>
> *(b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food, Drug, and Cosmetic Act.*

So in other words, claims based on lack of jurisdiction based on citizenship or assertion of constitutional rights *cannot be claimed* in federal court! Such cases must be heard in *state court* or a *common law court*! Don't be discouraged, however. There is a way around this statutory trap. Below is the way around the roadblock:

While income tax arguments are barred under this rule - actions proving lack of citizenship, domicile, and residence are specifically allowed. The issue is not income tax but jurisdiction over the person. Lack of jurisdiction is proved by FRCP Rule 44 and Rule 44.1 - You go to the proper jurisdiction to resolve the matter by taking the following steps:

1. Acquire domicile and residence in a common law jurisdiction.
2. File notice in the clerks office in state and federal courts.
3. Argue this in Federal court using as evidence the filings filed at common law, state court and federal courts.
4. Appeal at common law under FRCP Rule 60 last line "by independent action".

You are then not arguing jurisdiction in front of that court - you are using evidence to prove that jurisdiction already exist in another court. Read 28 U.S.C. §2201 and it states that it must be argued in the proper manner - and that is by not letting the US court decide that issue - go to common law and plead condition precedent under FRCP rule 8.(The citizenship was already decided before the action began).

This argument is in agreement with all of the cites herein and the argument that dual citizenship can exist. State law tells you the procedure for noticing the state courts that you have acquired a new residence and domicile.

5.6.11.4 How to Avoid Jeopardizing Your Nonresident Citizen or Nonresident Alien Status

If you are going to claim "nonresident alien" status, then you must do the following to ensure that you NEVER jeopardize that status, or you could incur unwanted additional income tax liability:

1. If you live in the United States** (the "federal zone"), you should always vote by absentee ballot in all national elections. IRS Publication 54 for the year 2000 states on page 13 that:

> *"Effect of voting by absentee ballot.*
>
> *If you are a U.S. citizen living abroad, you can vote by absentee ballot in any election held in the United States without risking your status as a bona fide resident of a foreign country. However, if you give information to the local election officials about the nature and length of your stay abroad that does not match the information you give for the bona fide residence test, the information given in connection with absentee voting will be considered in determining your status, but will not necessarily be conclusive."*

2. When or if you register to vote, you must be VERY careful not to sacrifice or confuse your citizenship status. Some states make it ***mandatory*** on the voter registration form that you claim to be a "U.S. citizen". They want to pull you into the federal zone so they can tax you and if they litigate against you for income tax evasion, they will use your voter registration form as proof that you are a citizen of the U.S.**/federal zone. California does this (see the Revenue and Taxation Code section 6017 for a definition of the term "This State" and "State of" for further details). Therefore, when you register to vote and must claim to be a U.S. citizen to get the "privilege" to vote (this is a scandal, if you ask me!), clarify which of the three "United States" you are claiming to be a citizen of as follows:
   - 2.1. Change the term "United States" to add the word "of America" throughout the voter registration form.
   - 2.2. Mention in an area on the form the supreme Court case of ***Hooven & Allison Co. v. Evatt, 324 U.S. 652 (1945)***, and the three definitions of "United States".
   - 2.3. Mention that of the three definitions, when you say you are a "U.S. citizen", it means that you are a citizen of "United States the country" or the "50 several states" and not the federal zone area of the United States.
   - 2.4. If they won't accept your changes above, then withdraw your voter registration. You should do all three of the above immediately after or preferably before you file your W-8 form to become a nonresident alien so that you have legal proof that you put the state on notice that you were NOT a U.S.** citizen.
   - 2.5. If you have to defend yourself in court because you claimed to be a "U.S. citizen" on your voter registration and there is confusion or misinterpretation over the use of the term "United States", explain which of the three definitions you meant (i.e. U.S.* or U.S.*** but NOT U.S.** citizen) and quote the case of ***Hassett v. Welch***, 303 U.S. 303 (1938) as proof that the dispute should be resolved in your favor:

> *"In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that,* ***if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer****..."* **Hassett v. Welch**., *303 US 303, pp. 314 - 315, 82 L Ed 858. (1938) (emphasis added)*

3. While you are living abroad, or outside the United States** (the "federal zone"), you must be consistent in stating to the foreign country, or state of the 50 states of the Union that you are a resident of that state. If you claim not to be and if the authorities of that non federal zone entity exclude your from their taxes, then you will lose your nonresident status. IRS Publication 54 says the following in that regard on page 13 of the year 2000 version:

> *"Statement to foreign authorities.*
>
> *You are not considered a bona fide resident of a foreign country if you make a statement to the authorities of that country that you are not a resident of that country and the authorities hold that you are not subject to their income tax laws as a resident.*
>
> *If you have made such a statement and the authorities have not made a final decision on your status, you are not considered to be a bona fide resident of that foreign country .To keep your status as a bona fide resident of a foreign country, you must have a clear*

> *intention of returning from such trips, without unreasonable delay, to your foreign residence or to a new bona fide residence in another foreign country."*

5.6.11.5 "Will I Lose My Military Security Clearance or Passport or Social Security Benefits by Becoming a Nonresident Alien or a 'U.S. national'?"

The answer to this question is emphatically no. The term "nonresident alien" on the IRS form W-8 (called a "Certificate of Foreign Status") is a "word of art" that only has meaning within the context of the Internal Revenue Code and nowhere else. You can still get a U.S. passport, maintain your military security clearance, serve in the military, and collect social security benefits based on what you paid in because you were born in the United States *of America* and are a Natural Born Sovereign Citizen and a "U.S. national". Your birth certificate proves that. The only thing that filing a W-8 and becoming a "nonresident alien" do in the eyes of the IRS is notify the IRS that you don't live in the federal zone, aren't a federal or U.S.** citizen (under the 14th Amendment), and aren't liable for federal income taxes under 26 U.S.C. §1 (and the implementing regulations in 26 CFR § 1.1-1).

To further investigate this matter, we looked at the U.S. Navy's directives on this subject. SECNAVINST 5510.30A (Secretary of the Navy Instruction 5510.30A) entitled *Department of the Navy Personnel Security Program*, talks about the citizenship requirements for getting a U.S. government security clearance. Here is what it says on page I-1 of Appendix I:

> *1. **Only United States citizens are eligible for a security clearance, assignment to sensitive duties or access to classified information.** When compelling reasons exist, in furtherance of the DON mission, including special expertise, a non-U.S. citizen may be assigned to sensitive duties (see chapter 5) or granted a Limited Access Authorization (see chapter 9) under special procedures.*
>
> ***When this instruction refers to U.S. citizens, it makes no distinction between those who are U.S. citizens by birth, those who are U.S. nationals,** those who have derived U.S. citizenship or those who acquired it through naturalization. For the purpose of issuance of a security clearance, citizens of the Federate States of Micronesia (FSM) and the Republic of the Marshall Islands are considered U.S. citizens.*
>
> [emphasis added]

You can view the above instruction yourself at the following web address:

> http://neds.nebt.daps.mil/551030.htm

However, it is very important to update your "U.S. citizenship" status as outlined in section 8.5.3.13 before you begin your administrative battle with the IRS, because this will significantly bolster your legal position and provide important and irrefutable evidence of your position by establishing evidence to prove their lack of jurisdiction over you. We also advise getting a notarized copy of your birth certificate from the county recorder or area where you were born. If the IRS wants to challenge you on your nonresident alien or citizenship status, you will need proof of that status. Examine your birth certificate, security clearance, etc carefully to ensure that they don't say you were born in the federal zone. If you were born in a military hospital, a federal base, or a federal territory or possession, or in the District of Columbia (because, for instance, you were in a military family), and your birth certificate says so, you may need to expatriate out of the federal zone and renounce your federal citizenship and become a "U.S. national". For further information on expatriation, we refer you to the following:

http://familyguardian.tzo.com/subjects/legalgovref/citizenship/usa.htm

http://familyguardian.tzo.com/Subjects/LegalGovRef/Citizenship/Expatriation.htm

5.6.11.6 REBUTTAL OF COMMON CRITICISM: "Please Don't Claim that you are a non-resident alien! It is wrong and that is trouble!"

> *"Prejudices, it is well known, are most difficult to eradicate from the heart whose soil has never been loosened or fertilized by education; they grow there, firm as weeds among stones. "*
> *--Charlotte Bronte*

This knee-jerk argument comes up quite a bit in reference to the Nonresident Alien Position as a way to discourage people from using it. It has a lot of variations and is usually based on a simplistic and inadequate understanding of the applicable law relating to nonresident aliens. For instance, some people will say that filing as a nonresident alien carries more potential for "liabilities", as shown in 26 U.S.C. §1461, which makes persons who are deducting and withholding on nonresident aliens liable as follows:

> *26 U.S.C. §1461 Liability for withheld tax*
>
> *Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax...*

But the fact of the matter is, the persons who are ***paying***, and therefore withholding, such income ***in all cases*** work for the U.S. government, and of course the federal government can make its own employees liable for not following federal law! No one who works for a private employer outside of the federal zone would ever be in the position of paying "U.S. source income" (a code word for government payments) to a nonresident alien so no one else would need to worry about liability for deducting and withholding of such income.

Just like any other activity in life, ignorance will hurt you, and this is especially true of tax law. The Nonresident Alien Position (NAP), like virtually ***anything***, can and probably will mean trouble if you ***don't*** know what you are doing or you haven't taken the time to do your homework, and there is more homework to do with this position because it is more unfamiliar to most people and because most people don't like to study the law. That's why we took the time to include section 5.6.11.2, which describes the legal responsibilities of nonresident aliens. The underlying legal issues of the nonresident alien position as we describe them in section 5.6.11 et seq, however, are very simple. A fairly small amount of legal research is necessary to understand the nonresident alien position, but most people never conquer their fear of the law or the IRS publications long enough to learn that it's actually the ***better*** position.

Criticism of the nonresident alien position usually falls into the following three categories:

1. **There is a knee jerk reaction to the use of the word "alien" to describe them, because they incorrectly think they are "U.S. citizens" who couldn't possibly be "aliens"**. As we explained in section 5.6.11, you can be a "nonresident alien" and not an "alien" as the terms are defined in the tax code, and this circumstance was created deliberately by the Congress who wrote our tax laws to steer people away from using the "nonresident alien" position, since in most cases it completely eliminates their federal tax liability. A more correct and accurate name for "nonresident alien" in the tax code would have been "Nonresident foreigner" and then to describe "U.S. nationals" as foreigners in the tax code. This use of terms, however, would have required the government to define the meaning of "foreign", which would have exposed the fraud that perpetuates the whole system and keeps people paying, so they must have decided not to name it honestly. That is why nowhere in the Internal Revenue Code is the term "foreign" defined: they simply don't want you to know what it means. The closest thing we have to a definition of "foreign" is found in 26 U.S.C. §7701(a)(5), which defines a "foreign corporation", but not the word "foreign".
2. **If they are low income, people think that by filing as nonresident aliens, they will end up paying a *higher tax rate as a percentage*, and they don't like that**. Nonresident aliens use the 1040NR form and pay a flat rate of 30% as defined in 26 U.S.C. §871(a), while those who file a 1040 form as "U.S.** citizens" and/or residents pay a graduated rate that is usually lower than 30% unless they are high income earners and which is described in 26 U.S.C. §871(b). However, because people have not taken the time to research what the law says it means to be a nonresident alien and rely on the misleading (at best, fraudulent at worst) IRS publications, they never learn that being a nonresident alien means they non longer owe any tax in most cases! Isn't that the result everyone wants?
3. **Confusion over the definition of the term "United States" in 26 U.S.C. §7701(a)(9) and "employee" in 26 U.S.C. §3401(c)**. Since most people never take the time to understand that "United States" means the federal zone in the context of the Internal Revenue Code, they don't realize that being a nonresident alien is actually a *good* thing, because it only taxes "U.S." (federal zone) source income, which means income from the federal government ONLY which

falls under 26 CFR § 1.861-8(f), and most people don't have any income from sources in this regulation, but they think they do because they never take the time to understand the 861 position. Since most people do not realize that 26 U.S.C. §3401(c) and 26 CFR § 31.3401(c) define "employee" to mean an elected or appointed officer of the United States government, then they don't realize that the only employer is Uncle Sam in the Internal Revenue Code, so they mistakenly reach the conclusion that they are federal employers who are liable to withhold taxes on nonresident aliens under 26 U.S.C. §1461!

Quite to the contrary, the nonresident alien position is the ***best*** position to be in, and is far better than being a Citizen because:

1. You are not a U.S. citizen, so you are no longer subject to the territorial or subject matter jurisdiction of the federal courts under the Internal Revenue Code. This immunizes you against legal actions by the IRS to extort, levy, lien, or seize taxes out of you that you aren't liable for.
2. Although the tax rate is a flat 30%, most people have no taxable [federal] U.S.** source income so they won't owe any tax anyway, which is seldom the case when you file a 1040 form.
3. The Form W-8 or W-8BEN allows you to get away without using SSN's. You therefore don't need to use social security numbers on any of your financial accounts, which improves your privacy and financial security and also makes it harder for the IRS and creditors to locate your assets.
4. You can file a W-8 or W-8BEN form to stop employment tax withholding instead of a W-4 form, and because there are no penalties for false W-8's like there are for W-4's ($500), then the IRS can't do a damn thing to fine or punish you if they find out you stopped withholding because you are outside of their territorial jurisdiction.
5. The W-8 and W-8BEN form, as well as the 1040NR forms that you file as a nonresident alien violate the Paperwork Reduction Act and the Privacy Act, as we pointed out in section 5.5.7, which provides a strong argument and defense against even being obligated to complete these forms and submit them to the IRS. These forms violate the Privacy Act because they do not tell whether they are "voluntary" or "mandatory" and they don't say so because the IRS doesn't want you to know they are "voluntary" so they don't tell you anything!
6. The clerks who process the 1040NR forms are far more familiar with the source rules than those who process the 1040 forms, and are therefore far more likely to believe you when you say you have no taxable "U.S. source" income on your 1040NR form.

WARNING: Use of the W-8BEN form is hazardous to your financial health if you aren't very careful about how you fill it out! IRS has made this new form, which replaces the W-8, very tricky to fill out without creating false presumptions that might incriminate you. We therefore have included detailed warnings and instructions for filling it out in section 8.5.3.13 that will hopefully keep you out of trouble.

5.6.12 Scams with the Word "includes"

One very frequently used trick the IRS likes to pull on uninformed Americans is to abuse the word "includes" to confuse people and illegally expand their jurisdiction. Their false argument is based on the definition of "includes" found in 26 U.S.C. §7701(c):

> ***TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.***
>
> *Sec. 7701. - Definitions*
>
> ***(c)** Includes and including*
>
> *The terms "includes" 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.*

They will point to this definition, and then say that any word whose definition uses this word essentially isn't bounded or defined by that definition and can be arbitrarily expanded to include other things not listed. They will then try to apply this false concept to the several places that "includes" is used in the Internal Revenue Code, most importantly in the definitions of the following words:

- "State" found in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110
- "United States" found in 26 U.S.C. §7701(a)(9)
- "employee" found in 26 U.S.C. §3401(c) and 26 CFR §31.3401(c)-1 Employee
- "person" found in 26 CFR 301.6671-1 (which governs who is liable for penalties under Internal Revenue Code)

If you are using the nonresident alien position, they will point to the definition of the term "United States" found in 26 U.S.C. §7701(a)(9) and say that it can mean anyplace in the country, because the definition uses the word "includes" and therefore can be "expansive" and apply anywhere. Ridiculous nonsense! You must first realize that this flagrant abuse of our language and of the meaning of the word "includes" is part of an obfuscation approach designed by Congress and the IRS to illegally expand the jurisdiction of the federal government to assess I.R.C. Subtitle A income taxes beyond their clear constitutional limits and beyond federal property or territories and into the 50 sovereign states. It violates common sense, and every other use of the word "includes" in the English language we ever learned throughout our lifetime. It also violates the government's own definition of the word "includes" published in the Federal Register, :

> ***Treasury Definition 3980****, Vol. 29, January-December, 1927, pgs. 64 and 65 defines the words includes and including as:*
>
> *"(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."*

The IRS definition of the word includes also violates several court rulings. Below is just one example:

> *"**Includes** is a word of **limitation**. Where a **general term** in Statute is followed by the word, '**including**' the primary import of the specific words following the quoted words is to indicate restriction rather than enlargement. **Powers ex re. Covon v. Charron R.I.**, 135 A. 2nd 829, 832 Definitions-Words and Phrases pages 156-156, Words and Phrases under '**limitations**'."*

As you may know, Black's Law Dictionary is the Bible of legal definitions. Let's see what it says about the definition of "includes" from the Sixth Edition on page 763:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d 227, 228."*

In other words, according to Black's, when INCLUDE is used it expands to take in all of the items stipulated or listed, but is then limited to them.

Such an obfuscating approach by the Congress and the IRS is a clear assault on our liberty, as it undermines our very language and our means of comprehending precisely and exclusively not only what the law *requires* of us, but what it *doesn't require*. Here is what Confucius said about this kind of conspiracy:

> *"When words lose their meaning, people will lose their liberty." Confucius, circa 500 B.C.*

Such an approach also amounts to a clear violation of due process under the Fourth and Sixth Amendment , in that it causes the law to *not* specifically define what is or is not required of the citizen:

> *"A statute which either forbids or requires the doing of an act in terms so vague that men and women of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."* **Connally vs. General Construction Co.,** *269 U.S. 385 (1926)*

The above finding gives rise to a doctrine known as the "void for vagueness doctrine", that was advocated by the U.S. supreme Court. This doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any criminal accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids.

> ***The essential purpose*** *of the "void for vagueness doctrine" with respect to interpretation of a criminal statute,* ***is to warn individuals of the criminal consequences of their conduct****. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law.*
>
> *[*U.S. v. De Cadena*, 105 F.Supp. 202, 204 (1952), emphasis added]*

If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. In the ***De Cadena*** case, the U.S. District Court listed a number of excellent authorities for the *origin* of this doctrine (see ***Lanzetta v. New Jersey***, 306 U.S. 451) and for the *development* of the doctrine (see ***Screws v. United States***, 325 U.S. 91, ***Williams v. United States***, 341 U.S. 97, and ***Jordan v. De George***, 341 U.S. 223). Any prosecution which is based upon a vague statute or a vague (or expansive) definition must fail, together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments.

IMPORTANT: We should remember that *without* the Bill of Rights (including the 4th, 5th, and 6th Amendments), our national government can define "includes" any way they want because absent a Bill of Rights, the Void for Vagueness Doctrine is irrelevant and inapplicable! As we clarified earlier, the Bill of Rights *do not* apply inside the federal zone as per ***Downes v. Bidwell***, 182 U.S. 244 (1901) and so the expansive use of "includes" is lawful there! That is why we must *never* claim to be "U.S. persons" or "U.S. citizens" who reside inside the federal zone: because then the Internal Revenue Code really can mean whatever the judge says it means, and this is especially true in an Article 1 court! See section 8.5.5.9 for further details on the distinction between an Article 1 and Article III court. Note that the U.S. Tax Court is an Article I legislative court that can only address matters affecting citizens and residents of the federal zone. You're playing with fire and a hazard to yourself if you litigate in this court and claim to be a U.S. citizen!

The abuse of the word "includes" or its expansive use also violates the rules of statutory construction, which are founded on the Fourth Amendment right of due process of law:

> *"In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that,* ***if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer...*** *"* ***Hassett v. Welch****., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938) (emphasis added)*
>
> *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 US 16, 23, 78 L Ed 2d 17, 104 S Ct 296 (1983) (citation omitted).* ***Keene Corp. v United States,****508 US 200, 124 L Ed 2d 118, 113 S Ct 1993. (emphasis added)*

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 lawyer or politician or a guess to describe what is "included", then our due process has been violated and our government has thereby instantly been transformed from a government of laws into a government of men. And in this case, it only took the abuse of one word in the English language to do so!

> *The concept of "**due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious** and that the means selected shall have a reasonable and substantial relation to the object being sought. [Black's Law Dictionary, Sixth Edition, page 500, under the definition of "due process of law"]*

If the word "includes" can be lawlessly abused to mean other things not specifically identified or at least classified in the statute, then the whole of the Internal Revenue Code essentially defines NOTHING, because it all hinges on jurisdiction, and 26 U.S.C. §7701(a)(9), which establishes jurisdiction uses the word "includes". How can the code define ANYTHING that uses the word "includes", based on the definition of "definition" found below?:

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

Is the word "United States" defined exactly, if "includes" can mean that you can add **whatever you arbitrarily want** to be "included" in the definition?

> *26 U.S.C. §7701(a)(9)*
>
> *United States*
>
> *The term "United States" when used in a geographical sense* **includes** *only the States and the District of Columbia.*

This clear and flagrant disregard for due process of law strikes at the heart of our liberty and freedom and we ought to boycott the income tax based on this clever ruse by the shysters in Congress and the IRS who invented it. If the word "includes" is used in its expansive sense, we have, in effect, subjected ourselves to the arbitrary whims of however the currently elected politician or judge wants to describe what is "included". That leads to massive chaos, injustice, and unconstitutional behavior by our courts and our elected representatives, which is exactly what we have today. To put it bluntly, such deceptive actions are treasonable. The abuse also promotes unnecessary litigation over the meaning of the tax laws, to the benefit of lawyers, lawmakers, and the American Bar Association, which is a clear conflict of interest. See section 3.19.1 for details on how the legal profession has exploited this uncertainty to their advantage in maximizing litigation. Here is what the U.S. Supreme Court says about the confusion created by the expansive use of the word "includes":

> *In the interpretation of statutes levying taxes, it is THE ESTABLISHED RULE NOT TO EXTEND their provisions, by implication, BEYOND THE CLEAR IMPORT OF THE LANGUAGE USED, OR TO ENLARGE their operations SO AS TO EMBRACE MATTERS NOT SPECIFICALLY POINTED OUT".* Gould v. Gould, *245 U.S.151*.

If this ridiculous and abusive interpretation of the word "includes" by the IRS is allowed to stand by the courts and this assault on our liberty by Congress is allowed to continue, then below is the essence of what the government has done to us, represented as a satirical press release by the U.S. supreme Court:

NEW RULES FOR LAW

SMUCKWAP NEWSSERVICE, Washington: The Supreme Court ruled today that judges can do whatever the hell they want. In a landmark case, Black-Robed Lawyers vs. Everyone Else, the justices handed down their inestimable judgment that since lawyers in general and judges in particular are such fine examples of humanity, not to mention smart enough to get through law school, judges can do whatever they please.

"The Rule of Law has ended," proclaimed Supreme Court Justice Arrogant B. Astard, "and the Rule of Judges begins!"

Turning their shiny black backs on the rest of America, the justices decided to toss out two hundred years of Constitutional law and indeed, to rid themselves completely of having to heed the Constitution.

"The law is what we say it is," said Justice Whiney I. Diot. "It has been this way for some time now, but with Black-Robed Lawyers vs. Everyone Else, we are coming out of our judicial closet. No more arguments will be allowed from anyone, and we don't want to hear any more of your complaining about your rights. In fact, any mention of so-called rights will guarantee you 100 years, hard labor."

Justice K. Rupt Assin concurred in his opinion that "judicial oligarchy has now fully come into its place in American history and will be fully enforced by an iron rule of law, and remember, law is whatever we say it is."

The Center for People Who Want to Leave This Country Because It Is Beginning to Look Too Much Like Nazi Germany analyzed the justices' decision.

"Judges now legally can put anyone in prison for any reason they want, for as long as they want," states the analysis. "Judges can also put jurors in prison for 'obstructing justice' and for anything else, including not handing the judge whatever money they may have on them at the time. Jurors who don't behave exactly as the judge desired have been persecuted in the past, but "now they can receive prison terms much longer than their own lifespan added to the lifespan(s) of the defendant(s) in any trial.

The report also mentioned the justices' decision that anyone who says anything disagreeable in their courtroom can be immediately arrested and jailed, their property confiscated, and their spouses and children taken as "wards" of the court under the justices own personal pleasure ... or... supervision.

The concept of separation of powers was addressed in the Center's report on the decision.

"There is no separation of powers," it reads, "when not only all the justices are lawyers, so are all Congressmen and the President, his wife, his cabinet, the entire Department of Justice, most lobbyists and almost everyone else in Washington, D.C."

*When questioned about what effect the decision would have on all Americans, the spokesman for the Center said, "I can't be certain. I suspect that emigration rather than immigration will become a major concern. Those Americans who are lawyers will be fine, for the most part. No one will ever again show up for jury duty. But if we thought we had an overcrowded prison problem before, we're in for a *major* shock!"*

5.6.13 Use of the Term "State" in Defining State Taxing Jurisdiction

Most state constitutions *do not* allow residents of the **s**tate to be liable for state income taxes because of the constraints imposed by the first ten amendments to the U.S. Constitution under the Fourteenth Amendment. This creates a difficult situation for the states in collecting income taxes. The legislators at the state level had to play the same kind of word games as the federal government to fool natural persons who are state residents into thinking they were liable for state income taxes. How did they do it? They played with the definition of the word "State" in their tax codes!

For the sake of comparison, we begin by crafting a definition of "State" which is deliberately designed to create absolutely no doubt or ambiguity about its meaning:

> *For the sole purpose of establishing a benchmark of clarity, the term "State" means any one of the 50 States of the Union, the District of Columbia, the territories and possessions belonging to the Congress, and the federal enclaves lawfully ceded to the Congress by any of the 50 States of the Union.*

Now, compare this benchmark with the various definitions of the word "State" that are found in Black's Law Dictionary and in the Internal Revenue Code. Black's is a good place to start, because it clearly defines *two different kinds* of "states". The first kind of state defines a member of the Union, *i.e.*, one of the 50 States which are united by and under the U.S. Constitution:

> *The section of territory occupied by **one of** the United States***. One of the component commonwealths or states of the **United States of America**.*
>
> *[emphasis added]*

The second kind of state defines a federal state, which is entirely *different* from a member of the Union:

> *Any state of the United States**, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession **subject to the legislative authority of the United States**. Uniform Probate Code, Section 1-201(40).*
>
> *[emphasis added]*

The term "State" is also defined in 4 U.S.C. Sections 105-113 as part of the Buck Act of 1940. 4 U.S.C. Section 110(d) defines "State" as follows:

> *TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES*
>
> *CHAPTER 4 - THE STATES*
>
> *(d) The term "State" includes any Territory or possession of the United States.*

Notice carefully that a state of the Union is not defined as being "subject to the legislative authority of the United States" because states are sovereign. Also, be aware that there are several *different* definitions of "State" in the IRC, depending on the context. One of the most important of these is found in a chapter specifically dedicated to providing definitions, that is, Chapter 79 (not exactly the front of the book). To de-code the Code, read it backwards! In this chapter of definitions, we find the following:

> *When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -- ...*
>
> *(10) State. -- The term **"State" shall be construed to include the District of Columbia**, where such construction is necessary to carry out provisions of this title.*
>
> *[IRC 7701(a)(10)]*
>
> *[emphasis added]*

Already, it is obvious that this definition leaves much to be debated because it is ambiguous and it is not nearly as clear as our "established benchmark of clarity" (which will be engraved in marble a week from Tuesday). Does the definition restrict the term "State" to mean only the District of Columbia? Or does it expand the term "State" to mean the District of Columbia *in addition to* the 50 States of the Union? And how do we decide? ***We would argue the that confusion created by this definition on the part of the authors in Congress is deliberate!***

The California Revenue and Taxation Code (R&TC) capitalizes on this confusion by introducing a similar definition of the term "State" that is consistent with the one above but is more clear:

> *17018. "State" includes the District of Columbia, and the possessions of the United States.*
> *[which don't include the 50 sovereign states but do include federal enclaves within those states]*

You can read the above for yourself at: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1. This definition basically says that "State" means federal enclaves within the borders of the state. We only present California law here as an example, but most states do the same thing in their tax code as California with their definition of "State".

Why does the definition of "State" matter? Because California, it turns out, only taxes *nonresidents* of California! California's Franchise Tax Board Form 590, the Withholding Exemption Certificate, says:

> *I certify that for the reasons checked below, the entity or individual named on this form is exempt from California income tax withholding requirements on payment(s) made to the entity or individual. Read the following carefully and check the box that applies to the vendor/payee:*
>
> ☐ ***Individuals—Certification of Residency***
>
> *I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See instructions for Form 590. General Information D. for the definition of resident.*
>
> ***B. Law***
>
> *R&TC Section* ***18662 and the related regulations require withholding of income or franchise tax on payments of California source income made to nonresidents of this state***.

So you only pay income tax if you are a *nonresident* of California. But how do they fool residents of California into declaring they are nonresidents or have income as a nonresident? They do it with the word "State". On line 12 of the California form 540 income tax return, the state companion to the 1040, they state:

> *"12. State income".*

Why didn't they just put "income" on this line, you might ask? The answer is that they wanted to fool you! So what they are saying is that the income appearing on line 12 is income originating from within *federal enclaves* within California! If you put anything other than zero on this line, you are admitting that you:

- Are a nonresident of California because you live in a federal enclave within the state.
- Have income from within that federal enclave.

- Because you live within that enclave, you have no Constitutional rights under the Fourteenth Amendment because the Fourteenth Amendment only applies on nonfederal land within the states.

- Without Constitutional rights, you are liable for paying income taxes and can't claim the Fifth Amendment protections of due process and the privilege of non-self incrimination.

Leave it to a slimy state tax lawyer to think up a scheme like this! This is a conspiracy against rights if we ever saw one and it should have been exposed on a massive scale a long time ago.

5.6.14 What Laws Do Direct Federal Income Taxes Violate?

Below is a summarized listing of laws that are violated as a result of imposing direct federal income taxes on U.S. citizens with earnings only from within the 50 states. See sections 5.2.2 and 10.7 for further details on these issues:

Table 5-20: Laws that income taxes violate

Subject	*Law*	*Explanation*
Direct taxes	Article 1, Section 9, Clause 4 states that: "No Capitation or other direct tax shall be laid unless in proportion to the Census or Enumeration herein before directed to be taken."	Congress cannot directly tax incomes without apportionment among the states and based on a Census or Enumeration and not on incomes.
Direct taxes	Article 1, Section 2, Clause 3 of the Constitution states that: "Representatives and direct taxes shall be apportioned among the several States"	Congress cannot directly tax incomes without apportionment among the states. Income taxes are direct taxes.
Prohibition against unreasonable searches and seizure by the government without probably cause and without a warrant	4th Amendment	4th Amendment prohibits unreasonable searches and seizure by the government without probable cause and without a warrant. Also protects security of property and personal effects from the government.
Prohibition of individuals being compelled to be a witness against oneself	5th Amendment	Being compelled to file a 1040 tax form and become a witness against oneself is unconstitutional
Prohibition against slavery	13th Amendment abolished slavery	Being compelled to pay income taxes is a form of slavery
Violation of due process—government cannot take property from a Citizen without a court hearing	5th and 14th Amendments require that citizens cannot be deprived of their property without a court hearing	Tax collections violate due process protections, because seizures and levies are commonly instituted without a hearing
Damages received for personal injuries in a tort suit are excluded from gross income	26 U.S.C. §104(a)(2)	
Penalty for officers or employees taking more money than is required by law	26 U.S.C. §7214	When IRS agents deprive you of more of your property than they are legally entitled under law, they violate this law
Taking of property that is not based on law	26 CFR § 601.106(f)(1)	IRS agents cannot take property they are not entitled to under law.
Retaliating against or harassing a Citizen	Section 1203, IRS Restructuring and Reform Act of 1998	IRS cannot use tax laws to retaliate against citizens or as a means of discrimination
Reckless or intentional disregard for any provision of title 26 is liable in a	26 U.S.C. §7433	Reckless disregard of any provision of title 26 is a basis for civil action and

Subject	*Law*	*Explanation*
civil action for damages		damages in a court of law

On the basis that income taxes violated all of these laws, citizens have a massive case against the federal government for fraud, extortion, and racketeering, and a class action lawsuit for these issues is long overdue!

5.6.15 IRS Intent to Deceive

Following the current statutes and regulations, and arriving at the conclusion that most Americans do not receive taxable income, admittedly can be a somewhat complicated task. While the evidence speaks for itself, there is another factor that needs to be addressed to give credence to the conclusions of this document.

The taxable sources of income are listed in a part entitled "*miscellaneous matters*," buried deep in a confusing jumble of regulations where most tax professionals have never looked. ***Regardless of how solid the citations are supporting this claim, such a claim cannot be credibly made without also openly accusing the authors of the law of making a concerted effort to deceive the public.*** It would be absurd to claim that a law that is this difficult to decipher came about purely by accident. At the same time, an accusation that the lawmakers set out to deceive the public certainly requires supporting evidence. Such evidence is abundant.

There are many matters discussed previously in this document which would suggest an attempt to deceive. Did the authors not know that the phrase "*from whatever source derived*" would be read by most as meaning "no matter where it comes from"? Is it coincidence that the taxable "items" are listed near the very beginning of the law, but the taxable "sources" are not described until several *thousand* pages later? How did it happen that the list of taxable sources ended up under the unobtrusive heading "*miscellaneous matters*" in 26 CFR § 1.861-8(f)(1)? *If the goal of the lawmakers was to convey the truth, the current statutes and regulations would* ***not*** *have been the result.* The following is intended to expose efforts to conceal the truth (referred to below as "the Great Deception"), while having the law remain literally correct, as it must be.

Reviewing a situation at various points in time can be more informative than simply looking at the situation from one point in time. For example, if the license plate of a stolen car (but not the car itself) is found in a garage, that may not be conclusive evidence of a crime. However, a series of pictures taken over a period of days can be very telling; an empty garage one day, a car fitting the description of the stolen car in the garage the next day, a welding machine next to the car the next day, pieces of a car there the next day, etc.

Similarly, looking at "snapshots" of certain parts of the law at different times, seeing how they were reworded, rearranged, etc., can give a clearer picture of the Great Deception. ***While the current statutes and regulations certainly indicate intent to deceive, a longstanding and ongoing attempt to cover up the truth becomes apparent when tracing the law backwards in history.***

The current income tax is based upon the income tax of 1913. Though the original laws, and how they were portrayed to the public, were already deceptive, there are numerous examples, from the beginning of the tax up to today, of things being moved, reworded, renumbered and changed, in such a way to make the correct application of the laws more and more difficult to find.

5.7 Considerations Involving Government Employment Income

Do you receive a check from City, County, State or Federal Government? Then on that amount the recommendations in this document do apply in *most cases* but require further explanation. In Article 1, Section 8, Clause 13, of the Constitution of the United States, Congress was delegated the authority "to make Rules for the Government." The truth is that the Internal Revenue Code as well as other U.S. Government Codes are merely special Codes created to regulate the U.S. Government's own employees. IBM has a "Dress Code" that their employees must either adhere to or not work for IBM. In the same manner, the Government has a Code that demands that ***elected or appointed government employees*** only are those entering into contracts with the U.S. Government, either pay what is referred to as an *official privilege tax (known as*

"The Income Tax") or not work for, or contract with, the U.S. Government. Citizens engaged in occupations of common right in the American States are not required by law to file a 1040 Form!

This fact is supported by the Internal Revenue Service's own definition of "wages" and "employees", found in their Codes and Regulations. Pursuant to 26 U.S.C. §3401(a), "…[T]he term 'wages means all remuneration for services performed by an employee'. This means that only "employees' as defined in the Internal Revenue Code and its implementing regulations earn taxable 'wages'." Following are some definitions of "employee" and "employer" defined at 26 U.S.C. §3401(c) and "employer" at § 3401(d), as follows:

> *26 U.S.C. §3401(c) Employee. 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.*

> *26 CFR § 31.3401(c)-1. Employee "a) the term 'employee', includes officers and employees, whether elected or appointed of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, …*
>
> *c) Generally, physicians, lawyers, dentists, veterinarians, contractors, 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**.*

> *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.*

Some people might say that the definition of federal "employee" is rather restrictive, as demonstrated in 5 U.S.C. §2105. Take the cite below, for instance, from 26 U.S.C. Chapter 24: "Collection of Income Taxes at the Source" (Federal employment tax withholding):

> *2105. DEFINITIONS*
>
> *(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.*

We have heard people claim that all federal employees meet the definitions above, because they were appointed to federal civil service when they and another government official signed their SF-50 form. They would say that the other government official who signs the SF-50 form was given the authority to sign their form because the power they had was ***delegated*** to them through a chain of authority that ultimately derives from the president and/or the U.S. Congress. However, we don't support this view because anyone else who is not elected or appointed by the President, Congress, etc. as above was hired in effect to perform a trade or skill as an occupation of "common right" as we will see shortly. Employees performing an occupation of "common right" do not depend chiefly on the privileges granted to them as an elected or appointed federal employee in order to perform their job. Instead, they are exercising skills they could just as productively employ outside the federal government, probably for greater pay.

The Public Salary Tax Act of 1939, was codified in 4 U.S.C. §111. Below is an excerpt from that law which clearly authorizes taxation of federal employees:

> *(a) General Rule. - The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction,* ***if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation****.*

What they are saying here is that the U.S. will honor whatever state or local taxes are imposed. It is very important in the above cite to remember, however, that last phrase "*if the taxation does not discriminate against the officer or employee because of the* ***source*** *of pay or compensation*." Why is this important? Because 26 U.S.C. §861 defines the only authorized "sources" of income that may be taxed by the *federal* government for the purposes of internal revenue, and we believe they are trying to say here that the taxable "sources" of income are unchanged by virtue of being a federal "employee", and that such employees are to be treated no differently than private sector employees for the purposes of the graduated federal income tax.

Each Federal department and agency is responsible for designating a withholding agent, and the General Accounting Office has responsibility for making determinations as to whether or not someone is liable for additional obligations ... see 5 U.S.C. §5512, 26 U.S.C. §7401 & 31 U.S.C. §3702, and attending regulations.

The income tax for federal "employees" does not rely on the definition of "gross income" at I.R.C. § 61 for the purposes of computing the amount of ***withholding,*** which is different than the *payment* or *liability* for income taxes. Instead, it defines *all remuneration received* as wages for the purpose of income tax ***withholding***, which is clearly different from the way private employers and employees are treated. However, like private employees, (which incidentally are not "employees" within 26 U.S.C.) the withholding *still* cannot occur without an IRS form W-4 being completed and signed by the employee giving the government permission to withhold. Why can they legally withhold on all wages, rather than relying directly on the definition of "gross income" found in I.R.C. section 61? The IRS will tell you that the wages received are a direct result of the "privileges" granted to federal "employees" who are allegedly elected or appointed to office. Note that this does NOT apply to employees who are not elected or appointed directly by the Congress or the President, but instead are practicing a trade profession that is of "common right", which we will explain further later. You will also note that "employees" as defined above all work in the District of Columbia, which isn't subject to the same tax and withholding rules as the rest of the 50 states, which is why they had to define "employees" the way they did . (Rather twisted, isn't all of this! That's the way lawyers like it because that's where they get their job security from....COMPLEX LAWS!)

The distinction between the Chapter 1 income tax and wages, i.e., two different taxes, or tax sources, is recognized in several court cases, with ***Commissioner v. Kowalski***, 434 U.S. 77 (1977) among them:

> *The income tax is imposed on taxable income, 26 U.S.C. § 1. Generally, this is gross income minus allowable deductions. 26 U.S.C. § 63(a). Section 61(a) defines as gross income "all income from whatever source derived" including, under § 61(a)(1), "[c]ompensation for services." The withholding tax, in some contrast, is confined to wages, § 3402(a), and § 3401(a) defines as "wages," 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 paid in any medium other than cash.*

The two concepts -- income and wages -- obviously are not necessarily the same. All wages of federal "employees" are reported as income by the United States (the federal zone), but remember that the same source rules (e.g. 26 U.S.C. §861) still apply to federal employees as to private employees as found in the Internal Revenue Code. This means that federal employees can still ask for all the income back that they received because it did not derive from a taxable "source".

The Department of the Treasury has been helpful in unraveling the long standing income tax scam. Possibly the greatest treasure posted on the Department of the Treasury Internet network is the Treasury Financial Manual, produced by the Financial Management Service. Volume I, Part 3, Chapter 4000 prescribes the process by which Federal employee taxes are to be collected by the agency, then transferred to IRS:

> *Section 4010 - SCOPE AND APPLICABILITY*
>
> *This chapter prescribes procedures for (1) withholding and depositing Federal income, social security, and Medicare taxes on wages paid to civilian and military employees; (2) for filing tax returns with the Internal Revenue Service (IRS); and (3) for filing income tax statements with the Social Security Administration (SSA).*
>
> *For information beyond the scope of this chapter, refer to IRS Publication 15, Circular E, Employer's Tax Guide, or an IRS office. Circular E describes employer tax responsibilities; explains withholding, depositing, and reporting requirements; and paying taxes. It explains the forms your employees must use and those you must send to the IRS and SSA.*
>
> *Withheld Federal taxes will be transferred to the IRS using the FEDTAX application of the Government-On-line Accounting Link System (GOALS). Any Federal agency that has not been established on FEDTAX should contact GOALS Marketing, Financial Management Service (FMS), on FTS 874-8788 or 202-874-8788.*
>
> *Withholding of qualified State, county and local taxes, in accordance with 31 CFR § 215, is then prescribed in Volume I, Part 3, Chapter 5000, here in part:*
>
> *Section 5010 - SCOPE AND APPLICABILITY*
>
> *This chapter provides instructions for withholding State, city, or county income taxes when an agreement has been reached between a State, city, or county and the Secretary of the Treasury. Agreements between the Secretary of the Treasury and States, cities, or counties prescribe how Federal agencies withhold State, city, or county income or employment taxes from the compensation of Federal employees and Armed Forces members. (See 31 CFR 215 at Appendix 1).*

All of the above leads to another interesting question, however. If the income tax was an excise tax which can only occur on businesses as a tax on sales, then one might well ask:

> *"Why do I get involved at all in paying it or keeping track of liability or payment, if it is a tax on my employer and not directly on me? Why do I have to list it in my income tax return at all if it is a tax on my employer and not me? Why isn't the tax invisible to the point where it doesn't affect or reduce my compensation directly at all? Wouldn't it be a 'direct tax' within the meaning of the constitution if it negatively impacted my compensation? Likewise, if it is an excise tax on my employer, then why do I the employee need to sign a W-4 to give my permission to withhold or get directly involved at all in authorizing or deduction of the tax from my pay?"*

The answer is that the sneaky Congress and IRS will call it an excise tax but let federal employees treat it like a direct tax, so the government doesn't need to increase your compensation to adjust for it's impact as the direct tax that it really is. Recall that direct taxes are prohibited by the constitution, as explained in detail in section 3.5.14 and in Article 1, Section 9, Clause 4 of the Constitution. Being a federal employee doesn't change this situation at all, unless the person being paid is an elected or appointed (by the President) government official, whose job depends primarily on the authority (and the privileges they contract to obtain by becoming a political officer) they get from their elected office to do their job.

Understanding the nature as well as the "source" of the income tax is important. On page 2580 of the 1943 edition of the Congressional Record-House (March 27), we find the following (which is NOT a law, but is helpful for explanation):

> *"The income tax is, therefore, not a tax on income as such. It is an excise tax with respect to certain activities and privileges which is measured by reference to the income which they produce. The income is not the subject of the tax; it is the basis for determining the amount of tax."*

The term "income tax" is a general classification heading for excise taxes, all of which fall into the indirect tax category. Even the Federal employee tax is not a tax on the wage, but the wage simply provides a "measure" for the tax. The income tax on government "employees" is a tax on "privileges" attending Federal employment. **However, this leads us to question the meaning of "privilege," since we saw from section 3.17.4 in the Federal District Court Case of *Simms. v. Ahrens*, 271 SW 720 (1925) that:**

> *"An income tax is **neither** a property tax nor a tax on occupations of common right, but is an EXCISE tax...The legislature may declare as 'privileged' and tax as such for state revenue, those pursuits not matters of common right, but it has **no power to declare as a 'privilege' and tax for revenue purposes,*** **occupations that are of common right."**

What does "occupations that are of common right" mean? Our understanding is that it includes any profession you can choose to do or undertake in private industry in any field or trade and which do not depend on the authority granted you as part of a political office. Occupations that are *not* of common right are things you can only do as an officer or politician working for a government agency by virtue of the rights and privileges and delegated authority granted to you as a consequence of your election or appointment to that political office. That is why the definition of "employee" in 5 U.S.C. Section 2105 quoted above is so very restrictive: because it has to define "occupations that are *not* of common right and which depend on the privileges associated with government service alone".

Following is an example of the rambling verbiage of "terms" the Internal Revenue Code drafters created to try to hide the fact that the earnings of private Citizens are not taxable under the law. They could have just as easily summed up the following in one regulation that read, "Only elected or appointed government officials are liable for the graduated income tax imposed in Section 1 of Subtitle A of Title 26".

> *26 U.S.C. §871(b)(2)-GRADUATED RATE OF TAX*
>
> *"…(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."*
>
> ---
>
> *26 U.S.C. §7701(a)(26) TRADE OR BUSINESS.—"Includes [only] the performance of functions of a **public office**."*

Following is the definition of Public Office, pursuant to Black's Law Dictionary, Abridged 6th Edition, means:

> *"Essential characteristics of a 'public office' are: (1) authority conferred by law, (2) fixed tenure of office, and (3) power to exercise some of the sovereign functions of government; key element of such test is that 'officer is carrying out sovereign function'. Essential elements to establish public position as 'public office' are: Position must be created by Constitution, legislature, or through authority conferred by legislation, portion of sovereign power of government must be delegated to position, duties and*

> *powers must be defined, directly or implied, by legislature or through legislative authority, duties must be performed independently without control of superior power other than law, and position must have some permanency."*

Therefore, to be involved in a "trade or business", as defined for the purposes of the Internal Revenue Code, an American must hold a ***public office***.

Administration of Internal Revenue Code (I.R.C.) Chapter 24 "employment taxes" , qualified State, county and local taxes, and other Federal personnel obligations (not related to federal income taxes), is under authority of 5 U.S.C. §§ 5512-5520a, not Subtitle F of the Internal Revenue Code generally. However, these sections only apply to parties who are either subject to State or local income tax or are in arrears to the U.S. Government for overpayment of wages or legal judgments, and DO NOT relate to the collection of income taxes that come under Title 26, the Internal Revenue Code.

To briefly summarize this section:

1. Elected or appointed federal "employees" as defined legally in 5 U.S.C. §2105, are the *only ones* subject to graduated income tax withholding under the I.R.C. Chapter 24, and the withholding is on *all* compensation or wages received, regardless of source.
2. The fact that income is withheld for federal employees doesn't necessarily make them "liable" to pay taxes. They can still ask for all their federal income tax back at the end of the year just like a private Citizen can, and they can still claim the same 26 U.S.C. §861 "source" issues as everyone else.
3. The reason the federal withholding tax rules for federal "employees" can be different from private sector employees in the 50 states is that all income of these "employees" is incident exclusively on the privileges of the elected political office they hold and are not a matter of "common right" nor are they associated with a commercial trade or profession. (see ***Simms V. Ahrens*** 271 SW 720 and others for more details).
4. Federal employees have a statutory obligation to pay social security taxes because of the retirement system they fall under. This makes them different than most other citizens, who aren't obligated to participate in Social Security. The statutory authority for this requirement comes from 5 U.S.C. §8422 (see section 5.16.8)
5. People who work for the federal government come under 26 U.S.C, which is the Internal Revenue Code, for the purposes of determining taxable "sources" of income with Federal Income Tax. This is the same as everyone else. There are no references anywhere in Title 26 that indicate that the code DOES NOT apply to federal employees.

5.8 So What Would Have to be Done to the Constitution to Make Direct Income Taxes Legal?

A question that often arises is the question about what it would take to allow Congress to constitutionally impose the tax that the American public believes already exists? Could they not "fix" the law somehow, to make it apply to all Americans?

(One obstacle to this would be accomplishing it without anyone noticing, since an admission of the true purpose of such an endeavor would also be an admission that some in the federal government have already committed several *trillion* dollars' worth of ***fraud and extortion***. Even if they could impose such a tax in the future, they could not retroactively undo the fraud of the past.)

If the Sixteenth Amendment didn't authorize Congress to directly tax the income of all Americans, what would it take to amend the Constitution to allow it? In short, it could not be done without repealing *most* of the Constitution. Because such a tax would necessarily constitute a massive regulation of behavior, behavior that is *not* under federal jurisdiction, the Tenth Amendment would first need to be repealed.

After that, Article I would have to be amended (and in effect, destroyed) by saying that Congress *can* regulate any behavior it wants within the 50 states, as long as it does it through "tax" legislation. To do this would, in the words of the Supreme Court, "*break down all constitutional limitation of the powers of Congress and completely wipe out the sovereignty of the states.*" It would mean the end of the Constitution, the end of the Union, the end of the 50 states, and the institution of a centralized police power. It cannot be done.

(Incidentally, for the same reasons, the entire debate over a flat income tax, a national sales tax, or any similar "replacement" for the current tax Code, is entirely pointless, as the limits on Congress' taxing power would limit *all* of these (and anything similar) to commerce under federal jurisdiction, i.e. international and foreign commerce.)

5.9 Other Clues and Hints At the Correct Application of the IRC

There are numerous other bits of information that hint at the correct application of the law, a few of which are included here as supporting evidence.

5.9.1 On the Record

As the Supreme Court and the Secretary of the Treasury have repeatedly stated, the federal income tax is (and has always been) an indirect excise tax. Excises, generally speaking, are taxes imposed on certain activities or privileges. In light of this, there are some interesting comments in the Congressional Record from March 27, 1943 (page 2580). A statement is included by a "*Mr. F. Morse Hubbard, formerly of the legislative drafting research fund of Columbia University, and a former* ***legislative draftsman*** *in the Treasury Department*" (clearly someone whose job would require a comprehensive understanding of the proper application of the law). His comments include the following:

> *"The income tax is, therefore,* ***not*** *a tax on* ***income*** *as such. It is an* ***excise*** *tax with respect to* ***certain activities and privileges*** *which is measured by reference to the income which they produce. The* ***income is not the subject of the tax****: it is the basis for determining the amount of the tax."*

The income tax is imposed on "***income*** *from whatever* ***source*** *derived*" (minus deductions). The mere receipt of income, by itself, is *not* (and could not be) the subject of this excise tax. It is the "*source*" which is the subject of the tax, and the amount of income received from that "*source*" is what is used to determine the amount of tax due. The above citations coincide well with the fact that the section of regulations for determining taxable income (26 CFR § 1.861-8) states that it applies only to income "***from specific sources and activities***." And the statutes and regulations under the part which "*determine*[s] *the* ***sources*** *of income* ***for purposes of the income tax***" all apply only to these same "*specific sources and activities*," which are all related to international or foreign commerce.

5.9.2 Section 306

Section 306 of the statutes deals with individuals receiving income from selling certain stocks. After dealing with the income itself, the section discusses the "source" of income.

> *"Sec. 306. Dispositions of certain stock*
> *(a) General rule*
> *If a shareholder sells or otherwise disposes of section 306 stock…*
> *(1) Dispositions other than redemptions -*
> *If such disposition is not a redemption…*
> *(A) The amount realized shall be treated as* ***ordinary income****…*
> *(f)* ***Source*** *of gain - The amount treated under subsection (a)(1)(A) as ordinary income shall,* ***for purposes of part I of subchapter N (sec. 861 and following, relating to determination of sources of income)****, be treated as derived from the same source as would have been the source if money had been received from the corporation as a dividend at the time of the distribution of such stock. If under the preceding sentence* ***such amount is determined to be derived from sources within the United States****, such amount shall be considered to be fixed or determinable annual or periodical* ***gains, profits, and income within the meaning of section 871(a) or section 881(a)****, as the case may be." [26 U.S.C. § 306(f)]*

The section states that if the income comes from "sources within the United States," then it constitutes "gains, profits, and income" under Section 871(a) or 881(a). Sections 871 and 881 deal exclusively with nonresident aliens and foreign corporations, respectively (both are found in Part II of Subchapter N, "*Nonresident aliens and foreign corporations*"). The wording of Section 306 implies that if the income in question comes from "sources within the United States**," then it must apply to one of these sections. If a citizen living and working in the United States** (the federal zone) receives the type of income dealt with in Section 306, and believes it constitutes "income from sources within the United States," halfway through the last sentence the reader is left in limbo. The sentence structure is "if A, then B." Using the usual overly-broad interpretation of the Code, if a ***citizen*** receives income from the type of stock mentioned from "sources within the United States," then that income "*shall be considered to be*" taxable for ***nonresident aliens*** or ***foreign corporations***. A contradiction exists, *unless* one realizes that the term "sources of income" has a restricted meaning, which in this case would apply only to foreigners.

5.9.3 Strange Links

In various sections of the statutes, Section 911 is referenced where it does not seem to fit in (if one accepts the common, overly-broad interpretation of the Code). One example exists in Section 1 itself (the section imposing the income tax on individuals). Subsection (g) of Section 1 deals with certain income of children being treated as income of that child's parents, and shows that the term "earned income" is defined in 26 U.S.C. §911(d)(2).

> *"(g) Certain unearned income of minor children taxed as if parent's income…*
> *(4) Net unearned income*
> *For purposes of this subsection--*
> *(A) In general*
> *The term "net unearned income" means the excess of--*
> *(i) the portion of the adjusted gross income for the taxable year which is not attributable to* ***earned income*** *(****as defined in section 911(d)(2)****)…" [26 U.S.C. § 1(g)]*

This section (26 U.S.C. § 1(g)) is referred to later in Section 59(j), and Section 911(d)(2) is again mentioned as the section which defines "earned income." Other sections, such as 26 U.S.C. § 66(d) and 26 U.S.C. § 469(e), also refer to Section 911(d)(2) for the definition of "earned income." There is nothing peculiar about the definition in 26 U.S.C. §911(d)(2) itself, which states:

> *"(d) Definitions and special rules*
> *For purposes of this section--*
> *(2)* ***Earned income***
> *(A) In general*
> *The term "****earned income****" means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include…" [26 U.S.C. §911(d)]*

What is interesting is the location of the definition:

> *Subchapter N -- Tax based on income from sources within or without the United States*
> *Part III -- Income from sources* ***without*** *the United States*
> *Subpart B --* ***Earned income of citizens or residents of United States***
> ***Sec. 911****. Citizens or residents of the United States* ***living abroad***

While it is true that the location of such a definition does not legally change the meaning of the definition, it is still somewhat telling that the definition is found in Subchapter N, rather than in Subchapters A and B (which impose the tax, and define "gross income" and "taxable income"). It is also telling that the definition itself (even though the definition is also "borrowed" by other sections) says that the definition is "*for purposes of this section*," meaning Section 911, which deals exclusively with the "*foreign earned income*" of United States citizens.

Another strange connection occurs in the section regarding "community income," which comes shortly after Section 63 defining "taxable income."

> *"Sec. 66. Treatment of community income*
> *(a) Treatment of community income where spouses live apart*
> *If- (1) 2 individuals are married to each other…;*
> *(2) such individuals-- (A) live apart… (B) do not file a joint return…;*
> *(3) one or both of such individuals have earned income for the calendar year which is community income; and*
> *(4) no portion of such earned income is transferred (directly or indirectly) between such individuals before the close of the calendar year,*
> *then, **for purposes of this title**, any community income of such individuals for the calendar year shall be treated in accordance with the **rules provided by section 879(a)**." [26 U.S.C. §66]*

Note that this is giving the rules applicable to all of Title 26 regarding "community income." But the section it refers to for such rules reads:

> *"Sec. 879. Tax treatment of certain community income **in the case of nonresident alien individuals***
> *(a) General rule - In the case of a married couple 1 or both of whom are **nonresident alien** individuals and who have community income for the taxable year, such community income shall be treated as follows:…" [26 U.S.C. §879(a)]*

The text here specifically states that it applies only where one or both are nonresident aliens. To use the same rules for two citizens of the United States, Section 66 would have to say something similar to "shall be treated in accordance with the rules provided by 879(a) regarding nonresident aliens, notwithstanding the fact that the individuals may be citizens or residents of the United States." But it says no such thing, implying that "community income" applies only if at least one partner is a nonresident alien.

5.9.4 Following Instructions

Form 1040 is divided into several categories, such as personal information, "*Filing Status*," "*Exemptions*," "*Income*," etc. In the instruction booklet for that form, there is a section that gives line-by-line instructions. The general category of "Income" begins:

> *"**Foreign-Source** Income*
>
> *You **must report** unearned income, such as **interest**, **dividends**, and pensions, from sources **outside the United States** unless exempt by law or a tax treaty. You **must also report** earned income, such as **wages** and tips, from sources **outside the United States**.*
>
> *If you worked abroad, you may be able to exclude part or all of your earned income. For details, see Pub. 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, and Form 2555, Foreign Earned Income, or Form 2555-EZ, Foreign Earned Income Exclusion.*
>
> *Community Property States... **
>
> *Rounding Off to Whole Dollars..." [1996 Instruction Booklet for Form 1040]*

(* - This concerns "*community income*," which is dealt with above. This would apply only to a United States citizen married to a nonresident alien.)

That is all it has to say about the general subject of income. The booklet then tells where the listed "*items*" (interest, dividends, wages, etc.) should be entered on Form 1040. While there is a statement specifically saying that "*you must*

report" these items if from sources ***outside*** the United States** (the federal zone), there is no statement that these items must be reported if they come from within the United States** (the federal zone).

This admission in the booklet is very easy for most readers to simply disregard as irrelevant to them. If there was the need to say that foreign-source income ***must*** be reported, why was there no need to say that any *other* income must be reported? Why did the statement not say that foreign source income "as well as domestic income" must be reported? One is left free to make the incorrect assumption that all income must be reported, when this is not the case.

A similar situation exists with IRS Publication 525, "*Taxable and Nontaxable Income*." The first thing this publication says concerning taxes, which appears on the *cover*, is:

> *"Important Reminder*
> ***Foreign Source Income***
> *If you are a U.S. citizen, you* ***must report*** *income from sources* ***outside*** *the United States (foreign income) on your tax return unless it is exempt by U.S. law."*

Then, in the introduction (which follows the above "reminder"), the publication states that the publication "*discusses many kinds of* ***income*** *and explains whether they are taxable or nontaxable*." Other than the "foreign source income" reminder, the publication deals only with "*items*" of income, not "*sources*." Again, one is left free to *assume* that income from within the United States** (the federal zone) is taxable to U.S. citizens, but it is not stated.

5.9.5 Treasury Decision 2313

The Supreme Court's decision in the Brushaber case in 1916 (240 U.S. 1) is often cited by the IRS as demonstrating that the income tax is Constitutional (which it is, *because* of its very limited legal application). What the IRS fails to mention, and what is not apparent from looking at the court's ruling in the case, is that the case concerned income from within the United States** (the federal zone) accruing to a ***nonresident alien***, which *is* subject to the income tax. Treasury Decision 2313 makes this apparent.

> *"Under the decision of the Supreme Court of the United States in the case of Brushaber v. Union Pacific Railway Co., decided January 24, 1916, it is hereby held that income accruing to* ***nonresident aliens*** *in the form of* ***interest*** *from the bonds and dividends on the stock of* ***domestic corporations*** *is subject to the income tax imposed by the act of October 3, 1913." [Treasury Decision 2313]*

Note how in this case an "*item*" of income (interest) is subject to the income tax when paid to *nonresident aliens*, because that is one of the legal "*sources*" of taxable income. The decision also states a proper use of Form 1040.

> *"The responsible heads, agents, or representatives of* ***nonresident aliens****, who are in charge of the property owned or business carried on* ***within*** *the United States,* ***shall make a full and complete return of the income therefrom on Form 1040****, revised, and shall pay any and all tax, normal and additional, assessed upon the income received by them in behalf of their* ***nonresident alien*** *principals." [Treasury Decision 2313]*

While this in itself does not prove that Form 1040 should not be used in any other situation, something telling appears later in the decision. Speaking of the responsibility of fiduciaries of domestic entities, it states:

> *"[W]hen there are two or more beneficiaries,* ***one or all of whom are nonresident aliens****, the fiduciary shall render a return on Form 1041, revised, and a personal return on* ***Form 1040****, revised,* ***for each nonresident alien*** *beneficiary."*

This both implies that a Form 1041 is not required if there are no nonresident alien beneficiaries (only citizens and residents), as well as implying that a Form 1040 is not to be issued for the citizen and resident beneficiaries.

5.9.6 Other Clues

As mentioned above, the only form ever approved for use with section 26 CFR § 1.1-1 of the regulations (under the Paperwork Reduction Act) was Form 2555, "*Foreign Earned Income*." In addition, the only form approved by the Office of Management and Budget for 26 CFR § 1.861-2 and -3 (which deal with interest and dividends from within the United States) is Form 1040NR, "*U.S.* ***Nonresident Alien*** *Income Tax Return*." Similarly, the only form approved under 26 CFR § 1.861-8 itself is Form 1120-F, "*U.S. Income Tax Return of a* ***Foreign Corporation***."

Below each section of regulations in the CFR there is a citation of the legal authority under which the regulations are made. The statutory authority for 26 CFR § 1.861-8 is listed as 26 U.S.C. § 7805 (which is the general rule-making authority for the Secretary, as shown in the first citation of this report), as well as 26 U.S.C. § 882(c), which reads:

> *"Tax on income of* ***foreign corporations*** *connected with United States business…*
> *(c) Allowance of deductions and credits*
> *(1) Allocation of deductions*
> *(A) General rule... the proper apportionment and allocation of the deductions for this purpose shall be determined as provided in* ***regulations prescribed by the Secretary****." [26 U.S.C. § 882(c)]*

This matches the fact that only the income tax return for a *foreign corporation* has been approved for use with this section of regulations by the OMB. The newer, temporary regulations in 26 CFR § 1.861-8T cite no *statutory* authority, but instead cite Treasury Decision 8228, which states that the authors of the regulation both work in the "*Office of the Associated Chief Counsel (****International****)*." The scope of the regulations is identified in the first paragraph of Treasury Decision 8228:

> *"Summary: This document provides temporary Income Tax Regulations relating to the allocation and apportionment of interest expense and certain other expenses for purposes of the* ***foreign tax credit*** *rules and certain other* ***international*** ***tax provisions****." [Treasury Decision 8228]*

So the authorities cited as the legal basis for the regulations for "*determining taxable income from sources within the United States*" (temporary and final) show that the regulations are about *international* commerce.

Another legal resource which demonstrates the true applicability of the "income tax" is the annotated index of the United States Code. While there are different versions which vary somewhat in exact wording, under "*Income tax, citizens*," only things such as citizens "*living abroad*" or "*about to depart from U.S.*" are listed.

Both the indexes and the contents of "Internal Revenue Bulletins" (which contain rulings and decisions by the IRS regarding interpretation of the law) reinforce the conclusions of this report. For example, the 1957-1960 cumulative bulletin has nine listings under "Citizens," every one of which deals with citizens being *outside* of the United States** (the federal zone). This same bulletin, under "*Income - Source*," has **35** listings, all of which deal with specific issues related to *international* commerce, with one exception; and that exception again reinforces the significance of Part I of Subchapter N, and the related regulations:

> *"****Within and without United States; determination****. - Rules are prescribed for* ***determination of gross income and taxable income*** *derived from sources within and without the United States... §§* ***1.861-1 through 1.864****. (Secs.* ***861-864****; '54 Code) T.D. 6258, C. B. 1957-2, 368."*

The bulletins show similar patterns year after year, from 1913 (when the basis of the current federal income tax was written) to the present.

Another resource which indicates the true nature of the "income tax" is the Internal Revenue Manual, which is the instruction manual for all divisions of the Internal Revenue Service. The Criminal Investigation Division of the IRS is the

division which deals with criminal violations of the federal "income tax" laws, including tax evasion and failure to file a return. Section 1132.55 of the Internal Revenue Manual (entitled "*Criminal Investigation Division*") begins as follows:

> *"The Criminal Investigation Division enforces the criminal statutes applicable to* ***income****, estate, gift, employment, and excise tax laws… involving* ***United States citizens residing in foreign countries*** *and* ***nonresident aliens*** ***subject to Federal income tax filing requirements****…" [IRM, Section 1132.55 (1991 Ed.)]*

Similarly, the federal regulations found in 26 CFR § 601.101(a) describe in general the functions of the Internal Revenue Service. The only specific mention in these regulations of who or what is subject to taxes administered by the Internal Revenue Service reads as follows:

> *"The Director, Foreign Operations District, administers the internal revenue laws applicable to taxpayers* ***residing or doing business abroad****,* ***foreign*** *taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to* ***nonresident aliens and foreign corporations****…" [26 CFR § 601.101(a)]*

In keeping with the deceptive structure used throughout the statutes and regulations, the reader is left to *assume* that some other matters are also under IRS jurisdiction, but nothing else is specifically mentioned.

5.9.7 5 U.S.C., Section 8422: Deductions of OASDI for Federal Employees

Personnel who are employed by the Federal Government and who fall under the Federal Employee Retirement System fall under 5 U.S.C., Section 8422. This law sets forth the requirement to withhold OASDI for such employees. Here is the text of the law (which you can view for yourself at http://uscode.house.gov/title_05.htm). Please note the section which has a box around it, which was highlighted for emphasis:

```
(a)(2) The percentage to be deducted and withheld from basic pay for
 any pay period shall be equal to -
     (A) the applicable percentage under paragraph (3), minus
     (B) the percentage then in effect under section 3101(a) of the
   Internal Revenue Code of 1986 (relating to rate of tax for
   old-age, survivors, and disability insurance).
   (3) The applicable percentage under this paragraph for civilian
 service shall be as follows:

 ------------------------------------------------------------------------
 ------------------------------------------------------------------------
 Employee                7                       January 1, 1987, to
                                                  December 31, 1998.
                         7.25                    January 1, 1999, to
                                                  December 31, 1999.
                         7.4                     January 1, 2000, to
                                                  December 31, 2000.
                         7.5                     January 1, 2001, to
                                                  December 31, 2002.
                         7                       After December 31,
                                                  2002.
 Congressional           7.5                     January 1, 1987, to
  employee                                        December 31, 1998.
                         7.75                    January 1, 1999, to
                                                  December 31, 1999.
                         7.9                     January 1, 2000, to
                                                  December 31, 2000.
                         8                       January 1, 2001, to
```

		December 31, 2002.
	7.5	After December 31, 2002.
Member	7.5	January 1, 1987, to December 31, 1998.
	7.75	January 1, 1999, to December 31, 1999.
	7.9	January 1, 2000, to December 31, 2000.
	8	January 1, 2001, to December 31, 2002.
	7.5	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller	7.5 7.75 7.9 8 7.5	January 1, 1987, to December 31, 1998. January 1, 1999, to December 31, 1999. January 1, 2000, to December 31, 2000. January 1, 2001, to December 31, 2002. After December 31, 2002.
Nuclear materials courier	7	January 1, 1987 to October 16, 1998.
	7.5	October 17, 1998 to December 31, 1998.
	7.75	January 1, 1999 to December 31, 1999.
	7.9	January 1, 2000 to December 31, 2000.
	8	January 1, 2001 to December 31, 2001.
	7.5	After December 31, 2002.

(b) Each employee or Member is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter, or under subchapter IV or V of this chapter, based on the service of the employee or Member.

Now isn't that interesting? The tyrants in Washington, D.C. who you elected to office just decided to in effect make contributions to Social Security "*a precondition of employment*" for federal employees! They in effect have told federal employees:

> *We know that if you were out in private industry, you wouldn't need to pay Social Security, so if you want to come to work for us, then you'll have to agree to allow us to take it out of your paycheck. And by the way, when we do, don't count of being able to take us to court for reducing your take home pay and depriving you of your property without due process, because by coming to work for us, you become indentured servants who agree implicitly that they are not being taken advantage of unfairly.*

I'll bet the vast majority of federal employees don't even know that they are involuntarily consenting in this way to subsidize a bankrupt system such Social Security by hiring on with the Federal Government. If contributing to social security were *mandatory*, do you think they would need a statute like this? Absolutely NOT!

5.10 How Can I Know When I've Discovered the Truth About Income Taxes?

One of the questions people ask us goes something like this:

> ***QUESTION**: Since there is a big government and legal profession cover-up and I therefore can't get the government or the IRS to even discuss with me or admit the truths that I've discovered about income taxes by virtue of reading this book, then how can I know that my conclusions are correct? The same argument applies to finding a legal coach, because most lawyers enjoy keeping their clients as ignorant as possible since that is how they can extort the most fees.*

Good question! That is one of the first questions we asked ourselves when we started writing this book because we wanted to make sure everything in it was correct. To get to the answer, you must take into consideration the following factors:

1. *The IRS doesn't want you to know the truth.* They won't respond to or acknowledge any of your good arguments. Usually, they will instead pick the weakest argument that won't stand up in court and assess you with a $500 frivolous return penalty for it using a meaningless form letter that doesn't teach you anything about the truth.
2. *The legal profession doesn't want you to know the truth.* That ought to be very clear from reading this chapter and section 6.7 of this book. The legal profession also has a monopoly of influence over all three branches of the federal government, because most of the people at the top are or have been lawyers, so they have a vested interest to preserve and enhance their power by keeping the general populace ignorant.
3. *The courts don't want you to know the truth about income taxes*. If they let the truth out, it would destroy the income tax system and eliminate the main source of pay for most federal judges, which amounts to a conflict of interest. Most federal judges probably also think you would destabilize our country economically if they entertained your valid arguments and the truth about income taxes. We know this isn't necessarily the case by reading section 1.11, but that is what they think. You can use the data in that section to convince them otherwise. Section 6.6 also clearly documents a judicial conspiracy to protect the income tax and how it is being implemented. Nevertheless, there are therefore strong incentives for judges to nix any and all arguments and to do everything they can to keep you from getting your evidence admitted and in keeping the jury, if there is one, from hearing the truth.
4. *Your Congressman doesn't want you to know the truth*. If he let the public hear the truth, he would probably:
   - 4.1. Reduce his benefits and fat retirement because of funding shortfalls in the government.
   - 4.2. Destroy his chances of being elected President.
   - 4.3. See a reduction of his power and influence by virtue of controlling half of your income to be spend on his favorite pet project.

If you look through the list above, the one that stands out and which provides the clearest evidence of conspiracy and actually allows you to research the cover-up and expose it is item 3 above: the federal courts. The courts are required to keep *everything on the record*, so when there is a cover-up, it's easier to spot and document. The key elements of the arguments we raise in this book have to do with the following issues:

1. The 861 source position in section 5.6.10.
2. The Nonresident alien position in section 5.6.11, which hinges mainly on the definition of "State" and "United States".
3. Deceiving definitions found in section 3.11.1.

What we are trying to expose is a large-scale federal court cover-up of approaches that are successful in litigating against the income tax in court, so what we are looking for is the *absence* of discussion about the above subjects in the court records, and the avoidance of publishment of cases that deal with them. We are also looking for information from persons who have litigated any of these issues where judges have deliberately chosen to not publish their case and have sealed the court record (a violation of the First Amendment, we might add!). For such cases, we then want to go to the particular

court where it was tried and request the findings of the court directly, because they would not be published in any electronic case databases we could search.

The above tactics describe exactly what we have done and the most convincing evidence we have of the truthfulness of the conclusions in this book is the *conspicuous absence* in any of the federal case databases of cases dealing with *any* of the three issues above. We searched over 200 years of case databases for the Supreme Court, Circuit courts, and District courts and found *nothing* that talks about any of these issues. Certainly, none of the issues we raise in this book are novel or new, and as a person who isn't a lawyer and who wrote this book, we would expect that there would have been *at least one* lawyer out there smarter than us who had used our arguments, but we found *no record* of any. The reason is because federal judges won't allow *anything* about those issues, which are guaranteed to be successful, to end up in any court record, for obvious reasons related to their continued employment and pay and in what appears to be a clear conflict of interest in violation of 28 U.S.C. 455. Section 6.6.6 (an ominous number!) talks about a positive act by a specific judge of covering up several cases litigated by William Conklin on issues of the Fifth Amendment relative to the income tax. The case of Lloyd Long found in section 12.2.7 is another example where a person was successful in defeating the income tax in court and which therefore went unpublished by the court. That is why we posted the court's findings for this case on our website at:

http://familyguardian.tzo.com/Subjects/Taxes/CaseStudies/LloydLong/long1.htm

The case of Loren C. Troescher is another example of someone who was successful against the income tax in federal court and whose judgment went unpublished. We have the judgement posted at:

http://familyguardian.tzo.com/Subjects/Taxes/CaseStudies/LTroescher/LorenTroescher.htm

We are sure there are other concrete examples of federal court cover-ups like Lloyd Long, William Conklin, and Loren C. Troescher. We therefore welcome your anecdotes, and especially those with specific information about cases you litigated that were unpublished. We would like to get the transcripts from a few such cases to post on our website, so please send us information about your cases, including hearing date(s), case numbers, and the court they were litigated in.

One more thing you will discover as you use the knowledge you have learned in this book against the IRS and your state taxing authorities is that as your skills improve and your arguments become clearer and better, the amount of time required for them to respond to your correspondence and income tax filings will go up *dramatically*. Our first tax refund filing was rejected in less than a couple months when we were still learning and had some flawed ideas. After we fixed all of the misconceptions in our logic, expanded this book considerably, and re-filed during a down season when few people were filing, we have been waiting *over six months* for a response from the California Franchise Tax Board. Sticking to the main arguments listed above and avoiding spurious arguments or weaker arguments clearly makes it very difficult for the IRS and state taxing authorities to respond to refund requests and zero income tax return filings (no income). Why? Remember that whenever you file a tax refund request or a zero tax return, the IRS and the state taxing authorities like to respond by citing the corrupt federal courts as their justification or precedent. They will seldom respond by quoting taxing statutes or regulations to justify their position, because then you can hold them accountable for incorrectly applying the law and they can no longer claim "plausible deniability" as a defense. *If you use successful arguments in your tax return filing that the courts have tried to cover up and won't publish, then you leave the IRS and your state taxing authorities with nothing to cite* except the law in their response, and the law clearly shows that *no one is liable*! They are speechless and have no way to respond! For such a case, they will assign your return to some junior lawyer or clerk, who then gets stuck with "high maintenance" returns that no one wants to deal with, and these people are even less equipped to respond, so it takes forever.

5.11 Why the "Void for Vagueness Doctrine" Should be Invoked By The Courts to Render the Internal Revenue Code Unconstitutional in Total

As we stated clearly earlier in section 3.19.1 entitled "Uncertainty of the Federal Tax Laws", it is quite evident that there is a lot of disagreement and a complete lack of consistency (or "stare decisis", or adherence to precedent) about how to interpret and apply the Internal Revenue Code at every level of the federal judiciary, including the Federal District and

Appellate Courts as well as the U.S. Supreme Court, not to mention the state courts. This ought to be more than ample evidence that the IRC lacks clarity.

We would argue that the Internal Revenue Code is deliberately vague, because if the code told the complete truth clearly, then citizens of the 50 states with income from the 50 states could would not have to pay direct income taxes, as guaranteed by Article 1, Section 9, clause 4 of the U.S. Constitution., which is still in force and was not changed by the Sixteenth Amendment.

The most effective way to discover where the truth is being hidden by the greedy lawyer-conspirators in Congress is to look in the Internal Revenue Code for either undefined terms or for terms, confusing definitions, or particular parts of the code over which the most litigation has occurred. Most of the controversy and illegal taxation would end if Congress would accurately define the following terms. Note that we have included the proper definition for each of these terms:

"Source": This term defines the geographical or territorial boundaries that this Title shall apply to.

"State" and "States": Within this Title, the term State refers to a federal possession or territory, to include the District of Columbia, Guam, Puerto Rico, etc. State DOES NOT include the 50 states of the Union, but does apply to federal possessions and facilities within those states.

"United States": The term "United States" is defined as any federal territory or land over which the federal government has exclusive control and jurisdiction, including District of Columbia, Guam, Puerto Rico, and federal reservations within the 50 states of the Union. It does NOT include the 50 States of the Union. The term "federal zone" shall also be synonymous with the term "United States" as used in this title.

"foreign income": Income from outside of the "United States" or the "federal zone". Income from within one of the 50 states is counted as foreign income.

Do you think there might be a conflict of interest by the lawyers in Congress who write the laws to *not* define these terms accurately because:

1. They would destroy income taxes on individuals and make the country financially insolvent.
2. They would undermine their livelihood after they left Congress, because they are only in office temporarily. Remember that lawyers make most of their money litigating, or fighting in court. If the tax laws were clear, litigation over taxes would end, and they would be without jobs because there would be no more people victimized by an unjust or obfuscated tax system. The law would be so clear that we wouldn't need to hire lawyers to act as "high priests" to interpret the confusing laws for us.

For these and many other reasons, conflict of interest on the part of the U.S. Congress and the legal profession in general (American Bar Association, or ABA) to keep the tax system the way it is will guarantee that the system will never improve until the citizens relentlessly apply heat to their representatives to fix things and speak with one very clear voice on the issue. That is why we wrote this book: to make the issues sufficiently clear that we can all speak with one loud and unanimous voice to the IRS and Congress, and all simultaneously use the same processes in dealing with both of them.

The vagueness of the IRC, in turn, represents a violation of our due process protections guaranteed by the Sixth Amendment and described in section 3.10.8.4 entitled "6th Amendment: Rights of Accused in Criminal Prosecutions". We will demonstrate how this is the case in this section.

There is a concept called the "void for vagueness" doctrine that was advocated by the U.S. Supreme Court. This doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any criminal accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids.

> ***The essential purpose*** *of the "void for vagueness doctrine" with respect to interpretation of a criminal statute,* ***is to warn individuals of the criminal consequences of their conduct****. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law.*
> ***[U.S. v. De Cadena****, 105 F.Supp. 202, 204 (1952), emphasis added]*

If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. In the ***De Cadena*** case, the U.S. District Court listed a number of excellent authorities for the *origin* of this doctrine (see ***Lanzetta v. New Jersey***, 306 U.S. 451) and for the *development* of the doctrine (see ***Screws v. United States***, 325 U.S. 91, ***Williams v. United States***, 341 U.S. 97, and ***Jordan v. De George***, 341 U.S. 223). Any prosecution which is based upon a vague statute must fail, together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments. The U.S. Supreme Court has emphatically agreed:

> *[1] That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and* ***a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law****.*
> ***[Connally* et al.** ***v. General Construction Co.,****269 U.S 385, 391 (1926), emphasis added]*

The debate that is currently raging over the correct scope and proper application of the IRC is obvious, empirical proof that men of common intelligence are differing with each other. Section 3.19.1 on "Uncertainty of the Federal Tax Laws" is proof of the extent of the conflicts in interpreting the tax laws by the federal appellate courts. For example, some people advocate definitions of "includes" and "including" which are expansive, not restrictive. The matter could be easily decided if the IRC would instead exhibit sound principles of statutory construction, state clearly and directly that "includes" and "including" are meant to be used in the *expansive* sense, and *itemize* those specific persons, places, and/or things that are "otherwise within the meaning of the terms defined". If the terms "includes" and "including" must be used in the *restrictive* sense, the IRC should explain, clearly and directly, that expressions like "includes only" and "including only" must be used, to eliminate vagueness completely. Instead, they currently define the term "includes" and "including" using the expansive sense and then contradict their own definition in IRC section 61 by adding the phrase "(but not limited to)".

Alternatively, the IRC could exhibit sound principles of statutory construction by explaining clearly and directly that "includes" and "including" are always meant to be used in the *restrictive* sense.

Better yet, abandon the word "include" entirely, together with all of its grammatical variations, and use instead the word "means" (which does not suffer from a long history of semantic confusion). It would also help a lot if the 50 **S**tates were consistently capitalized and the federal **s**tates were not. The reverse of this convention can be observed in the regulations for Title 31 (see 31 CFR Sections 51.2 and 52.2). We talk about how to rewrite the tax laws in Title 26 of the U.S.C. in section 8.5 "What would it take for the IRS and the U.S. Congress to 'come clean'".

These, again, are excellent grounds for deciding that the IRC is vague and therefore null and void. Of course, if the real intent is to unconstitutionally expand federal jurisdiction in order to subjugate the 50 **s**tates under the dominion of federal government (defined along something like ZIP code boundaries *a la* the Buck Act, codified in Title 4), and to replace the sovereign Republics with a monolithic totalitarian socialist dictatorship, carved up into arbitrary administrative "districts", that is another problem altogether. Believe it or not, the case law which has interpreted the Buck Act admits to the existence of a "State within a state"! So, which State within a state are you in? Or should we be asking this question: "In the State within which state are you?" (Remember: a preposition is a word you should never end a sentence with!)

The absurd results which obtain from expanding the term "State" to mean the 50 States, however, are problems which will not go away, no matter how much we clarify the definitions of "includes" and "including" in the IRC. There are 49 other U.S. Codes which have the exact same problem. Moreover, **the mountain of material evidence impugning the ratification of the so-called 16th Amendment should leave no doubt in anybody's mind that Congress must *still***

apportion all direct taxes levied inside the sovereign borders of the 50 States. The apportionment restrictions have never been repealed.

Likewise, Congress is not empowered to delegate unilateral authority to the President to subdivide or to join *any* of the 50 States. There are many other constitutional violations which result from expanding the term "State" to mean the 50 States of the Union. In this context, the mandates and prohibitions found in the Bill of Rights are immediately obvious, particularly as they apply to Union State Citizens (as distinct from United States** citizens a/k/a federal citizens). Clarifying the definitions of "includes" and "including" in the IRC is one thing; clarifying the exact extent of sovereign jurisdiction is quite another. Congress is just not sovereign within the borders of the 50 States.

Sorry, all you Senators and Representatives. When you took office, you did *not* take an oath to uphold and defend the Ten Commandments. You did *not* take an oath to uphold and defend the Uniform Commercial Code. You did *not* take an oath to uphold and defend the Communist Manifesto. You *did* take an oath to uphold and defend the Constitution for the United States of America.

It should be obvious, at this point, that capable authors do agree that the 50 States do *not* belong in the standard definition of "State" found in 26 U.S.C. §7701(a)(10) of the IRC because they are in a class that is *different* from the class known as federal states. Within the borders of the 50 States, the "geographical" extent of exclusive federal jurisdiction is strictly confined to the federal enclaves; this extent does not encompass the 50 States themselves. See 40 U.S.C. §255, which clearly shows that the jurisdiction of the federal courts only extend onto federal property.

This ruling was significant, because it divides the United States of America 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 states on the other hand. This issue is very important and explains the definitions of "State" and "United States" found in sections 3.6.1.15 and 3.6.1.18 respectively.

We cannot blame the average American for failing to appreciate this subtlety. However, we can blame all of the federal courts for failing to resolve these controversies to the benefit of the Citizen, as the U.S. Supreme Court has clearly said they are obligated to do in the following case:

> *"...if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer..."*
> ***Hassett v. Welch**., 303 US 303, pp. 314 - 315, 82 L Ed 858. (1938)*

The confusion that results from the vagueness we observe is inherent in the Code and evidently intentional, which raises some very serious questions concerning the *real* intent of that Code in the first place. Could money have anything to do with it? That question answers itself. An even more interesting question was raised by one of our readers, who wrote:

> *Chris,*
>
> *Greetings... The more that I mull this issue over, the more that I believe that the weak point of the tax laws are that they do not meet nor surpass the "Void for Vagueness" criteria. If it is up to the individual to determine their liability then, to ascertain that they must, at the very least, read and understand all of title 26. If they do not then they cannot sign certifying that they are in compliance and that they are legally liable. If this is actually the burden placed upon the American public then I believe that this should be the focus or at least one of the main focuses of the issues and questions raised with the government and the Congress.*
>
> *Regards,*
>
> *Larry W.*

In the meantime, the IRC should have been thrown out by the courts long ago because it violates the Sixth Amendment by not being sufficiently specific as to clearly define who specifically is liable for paying federal income tax. But if the courts

did this, then judges would have to shut off what they think is the source of their paycheck, and you know that kind of honesty and integrity is nowhere to be found in our corrupt government, much less anywhere in the legal profession.