

WHY THE GOVERNMENT CAN'T LAWFULLY ASSESS HUMAN BEINGS WITH AN INCOME TAX LIABILITY WITHOUT THEIR CONSENT

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1 Introduction

2 This memorandum of law addresses the legal authority of the IRS in executing assessments and Substitutes For Return
3 (SFR) against men and women and not businesses or artificial entities. If you are a business, corporation, LLC, or trust,
4 you should not be reading this document because it is irrelevant to your situation. The term “natural persons” as used in the
5 title of this document therefore does NOT imply artificial entities or the “person” defined in 26 U.S.C. §6671(b) or 26
6 U.S.C. §7343, both of which are “public officers” within the federal corporation called the “United States”.

7 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I](#) > § 6671
8 [§6671. Rules for application of assessable penalties](#)

9 (b) Person defined

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

14 [TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D](#) > § 7343
15 [§7343. Definition of term “person”](#)

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

19 If you would like to know more about the above scam, see:

Why Your Government is Either a Thief or You Are a “Public Officer” for Income Tax Purposes, Form #05.008
<http://sedm.org/Forms/FormIndex.htm>

20 It is very common for the IRS and state revenue agencies to send out requests to file income tax returns. These notices are
21 usually triggered under all of the following conditions:

- 22 1. The IRS or state revenue agency has received IRS Form W-2 or 1099 reports directly from a business, private
23 employer or financial institution.
24 2. The IRS or state revenue agency has received IRS Form W-2 or 1099 reports indirectly through the FedState program.
25 The FedState program is the mechanism by which states and the IRS share Information Return reports between
26 themselves. See the following IRS Publication 963 for detailed information about how the FedState program works to
27 share Information Return reports between the States and IRS:
28 <http://famguardian.org/TaxFreedom/Forms/IRSPub963.pdf>
29 3. The total amount of reported “wages” on a W-2 plus “trade or business” earnings on the 1099 exceeds the exemption
30 amount found in [26 U.S.C. §6012\(a\)](#).

31 When the above conditions are satisfied, revenue agencies “presume” that the person against whom these usually false
32 reports were made is a “taxpayer”.¹ At that point, they are presumed to be guilty until they prove themselves innocent
33 under [26 U.S.C. §7491](#):

34 [26 U.S.C. Sec. 7491. Burden of proof](#)

35 (a) Burden shifts where taxpayer produces credible evidence

36 (1) General rule

37 If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to

¹ The reports are usually false for the reasons clearly explained in the following document:
Correcting Erroneous Information Returns, Form #04.001
<http://sedm.org/Forms/FormIndex.htm>

1 *ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the*
2 *burden of proof with respect to such issue.*

3 (2) *Limitations*

4 *Paragraph (1) shall apply with respect to an issue only if -*

5 (A) *the taxpayer has complied with the requirements under this title to substantiate any item;*

6 (B) *the taxpayer has maintained all records required under this title and has cooperated with reasonable*
7 *requests by the Secretary for witnesses, information, documents, meetings, and interviews; and*

8 (C) *in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).*

9 *Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect*
10 *to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable*
11 *date (as defined in section 645(b)(2)).*

12 (3) *Coordination*

13 *Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of*
14 *proof with respect to such issue.*

15 The problem with the above "presumption" and the shifting of the burden of proof that it creates is that it prejudices
16 Constitutional rights if the person against whom the reports were wrongfully filed is domiciled in a state of the Union and
17 has no public office, contracts, or agency with the federal government which might hamper or undermine their rights.
18 According to the U.S. Supreme Court, such "presumptions" are unconstitutional and a violation of due process of law, if
19 they prejudice Constitutional rights:

20 *"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory*
21 *presumption any more than it can be violated by direct enactment. The power to create presumptions is not a*
22 *means of escape from constitutional restrictions."* [219 U.S., at 239](#).

23 *Thus the Court held that presumptions, while often valid (and some of which, I think, like the presumption of*
24 *death based on long unexplained absence, may perhaps be even salutary in effect), must not be allowed to*
25 *stand where they abridge or deny a specific constitutional guarantee.*
26 [[United States v. Gainly, 380 U.S. 63 \(1965\)](#)]

28 *Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process*
29 *Clauses of the Fifth and Fourteenth Amendments.* In [Heiner v. Domnan, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed.](#)
30 [772 \(1932\)](#), the Court was faced with a constitutional challenge to a federal statute that created a conclusive
31 presumption that gifts made within two years prior to the donor's death were made in contemplation of death,
32 thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary
33 and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that it
34 had "held more than once that a statute creating a presumption which operates to deny a fair opportunity to
35 rebut it violates the due process clause of the Fourteenth Amendment." *Id.*, [at 329, 52 S.Ct., at 362](#). See, e.g.,
36 [Schlesinger v. Wisconsin, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 \(1926\)](#); [Hooper v. Tax Comm'n, 284 U.S.](#)
37 [206, 52 S.Ct. 120, 76 L.Ed. 248 \(1931\)](#). See also [Tot v. United States, 319 U.S. 463, 468-469, 63 S.Ct. 1241,](#)
38 [1245-1246, 87 L.Ed. 1519 \(1943\)](#); [Leary v. United States, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23](#)
39 [L.Ed.2d. 57 \(1969\)](#). Cf. [Turner v. United States, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610](#)
40 [\(1970\)](#).

41 [*United States Supreme Court, Vlandis v. Kline, 412 U.S. 441 (1973)*]

42 These false presumptions on the part of the IRS and state revenue agencies created by the erroneous Form W-2 and 1099
43 reports leads revenue agencies to institute collection activity against the target of the W-2 and 1099 reports. In many cases,
44 this collection activity is instituted wrongfully and illegally under [26 U.S.C. §7214](#) because of any one of the following
45 reasons:

- 46 1. The reports made are erroneous.
- 47 2. "gross income" is usually wrongfully imputed to the target of the reports that often results in an unlawful assessment or
48 Substitute For Return (SFR) on the part of the IRS or the state revenue agency. The reasons why it is unlawful are
49 exhaustively explained herein.
- 50 3. The W-2 reports wrongfully presumed the existence of "consent" and therefore reported incorrect "wage" amounts on
51 the W-2. Only a person who does not otherwise occupy a "public office" within the government can consent to be
52 treated as though he does before he may earn "wages" as legally defined.

53 [26 CFR §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

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

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

14 ***26 CFR §31.3402(p)-1 Voluntary withholding agreements.***

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

23 4. In the case of the 1099, the company or financial institution wrongfully presumed that the recipient of the earnings was
24 engaged in a "trade or business", which is not true for the vast majority of Americans.

25 This memorandum is intended to be attached to your response to IRS or state "Notice of Proposed Assessment" letters. It
26 shows that you are not a "taxpayer", and that the state and IRS has no authority to perform any kind of assessment against
27 you without your consent, which you do NOT give. It also can be used to prove that any assessment already performed by
28 the IRS or state agency was done fraudulently and illegally, which gives you standing to sue the assessment officer for
29 violation of rights. We will close this memorandum with a series of admissions for readers who are still unconvinced by
30 the content of the conclusions documented here. The purpose of these admissions will be to offer the reader an opportunity
31 to refute the overwhelming evidence supporting everything in this memorandum. If the recipient of this memorandum does
32 not rebut the questions at the end with answers and supporting evidence within 30 days of receipt of this memorandum,
33 then he is forever estopped from challenging the facts and conclusions contained herein.

34 **2 "Taxpayer" v. "Nontaxpayer"**

35 *"The taxpayer-- that's someone who works for the federal government but doesn't have to take the civil service*
36 *examination."*
37 *[President Ronald W. Reagan]*

38 The word "taxpayer" is defined in 26 U.S.C. §7701(a)(14) and 26 U.S.C. §1313 as someone who is "liable for" and
39 "subject to" the income tax in Internal Revenue Code Subtitle A.

40 ***TITLE 26 > Subtitle F > CHAPTER 79 > § 7701***
41 ***§ 7701. Definitions***

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

44 (14) Taxpayer

45 The term "taxpayer" means any person subject to any internal revenue tax.

46 The "person" they are referring to above is further characterized as a "citizen of the United States" or "resident of the
47 United States" (alien). The tax is not on nonresident aliens, but on their INCOME, therefore they cannot lawfully be
48 "taxpayers":

1 **TITLE 26--INTERNAL REVENUE**
2 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
3 **PART 1_INCOME TAXES--Table of Contents**
4 **Sec. 1.1-1 Income tax on individuals.**

5 (a) General rule.

6 (1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of
7 the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien
8 individual.

9 What “U.S. citizens” and “U.S. residents” share in common is a domicile on federal territory that is no part of the exclusive
10 jurisdiction of any state of the Union. Collectively, they are called “U.S. persons” as defined in 26 U.S.C. §7701(a)(30).
11 Remember:

12 “U.S. person=domicile or residence on federal territory and not any state of the Union”

13 The “United States” they mean in the term “U.S. citizen” is defined as the “District of Columbia” in 26 U.S.C. §7701(a)(9)
14 and (a)(10) and nowhere includes any state of the Union because they are sovereign and foreign in respect to the federal
15 government. In that sense, income taxes are a franchise tax associated with the domicile/protection franchise.

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

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

24 “domicile. A person's legal home. That place where a man has his true, fixed, and permanent home and
25 principal establishment, and to which whenever he is absent he has the intention of returning. Smith v. Smith,
26 206 Pa.Super. 310, 213 A.2d 94. Generally, physical presence within a state and the intention to make it one's
27 home are the requisites of establishing a "domicile" therein. The permanent residence of a person or the place
28 to which he intends to return even though he may actually reside elsewhere. A person may have more than one
29 residence but only one domicile. The legal domicile of a person is important since it, rather than the actual
30 residence, often controls the jurisdiction of the taxing authorities and determines where a person may
31 exercise the privilege of voting and other legal rights and privileges.”

32 [Black's Law Dictionary, Sixth Edition, p. 485]

33 Those who don't want to pay the tax or be “taxpayers” simply don't partake of the government protection franchise and
34 instead declare themselves as “nonresidents” with no “residence” or “permanent address” within the jurisdiction of the
35 taxing authority on every government form they fill out. That is why “nonresident aliens” cannot be “taxpayers”. For
36 further details, see:

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

37 The IRS refers to everyone as “taxpayers” because making this usually false presumption against innocent “nontaxpayers”
38 is how they recruit new “taxpayers”. Here is the way one of our readers describes how he reacts to being habitually and
39 falsely called “taxpayer” by the IRS:

40 I refuse to allow any IRS or State revenue officer to call me or any client a "taxpayer". Just because I may look
41 like one or have the attributes of one does not necessarily make me one. To one IRS lady, and I have no reason
42 to doubt that she fits this category, I use the following example. "Miss you have all of the equipment to be a
43 whore, but that does not make you one by presumption." Until it is proven by a preponderance of evidence I
44 must assume you are a lady and you will be treated as such. Please have the same respect for me, and don't
45 slander my reputation and defame my character by calling me a whore for the government, which is what a
46 "taxpayer" is.
47 [Eugene Pringle]

48 Funny! But guess what? This is not a new idea. We refer you to the Bible book of Revelation, Chapter 17, which
49 describes precisely who this whore or harlot is: Babylon the Great! Check out that chapter, keeping in mind that “Babylon

1 the Great" is symbolic of the city full of all the ignorant and idolatrous people who have unwittingly made themselves into
2 government whores by becoming surety for government debts in the pursuit of taxable government privileges and benefits
3 they didn't need to begin with. The Bible describes these harlots and adulterers below:

4 *"Adulterers and adulteresses! Do you not know that friendship [and citizenship] with the world [and the
5 governments/states of the world] is enmity with God? Whoever therefore wants to be a friend of the world
6 makes himself an enemy of God."*
7 *[James 4:4, Bible, NKJV]*

8 *"When thou sawest a thief [the IRS] then thou consentedst with him, and hast been partaker with adulterers."*
9 *[Ps 50:18]*

10 *"Where do wars and fights [and tyranny and oppression] come from among you? Do they not come from your
11 desires for pleasure [pursuit of government "privileges"] that war in your members?...You ask [from your
12 government and its THIEF the IRS] and do not receive, because you ask amiss, that you may spend it on your
13 own pleasures. Adulterers and adulteresses [and HARLOTS]! Do you not know that friendship with the
14 world is enmity with God? Whoever therefore wants to be a friend of the world makes himself an enemy of
15 God."*
16 *[James 4:3-4, Bible, NKJV]*

17 These "taxpayer" and citizen government idolaters have made government their new god (neo-god), their friend, and their
18 source of false man-made security. That is what the "Security" means in "Social Security". The bible mentions that there
19 is something "mysterious" about "Babylon the Great Harlot":

20 *"And on her forehead a name was written: MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS
21 AND OF THE ABOMINATIONS OF THE EARTH."*
22 *[Rev. 17:5, Bible, NKJV]*

23 The mystery about this harlot/adulterous woman described in Rev. 17:5 is symbolic of the ignorance and apathy that these
24 people have about the law and their government. For a fascinating read into this subject, we refer you to the free book
25 below:

26 **Babylon the Great is Falling**
27 <http://www.babylonthegreatisfalling.net/>

28 The IRS **DOES NOT** have the authority conferred by law under Subtitle A of the Internal Revenue Code to bestow the
29 status of "taxpayer" on any natural person who doesn't first volunteer for that "distinctive" title. Below are some facts
30 confirming this:

31 1. **There is no statute making anyone liable for the income tax.** Therefore, the only way you can become subject is by
32 volunteering. Subtitle A of the Internal Revenue Code is therefore "private law" and "special law" that only applies to
33 those who individually consent by connecting their earnings to a "trade or business", which is a "public office" in the
34 United States government. These people are referred to in the Treasury Regulations as "effectively connected with a
35 trade or business". BEFORE they consent, they are called "nontaxpayers". AFTER they consent, they are called
36 "taxpayers".

37 *"To the extent that regulations implement the statute, they have the force and effect of law...The regulation
38 implements the statute **and cannot vitiate or change the statute...**"*
39 *[Spreckles v. C.I.R., 119 F.2d, 667]*

40 *".**liability for taxation must clearly appear**[from statute imposing tax]."*
41 *[Higley v. Commissioner of Internal Revenue, 69 F.2d. 160 (1934)]*

42 *"**While Congress might have the power to place such a personal liability upon trust beneficiaries who did not**
43 **renounce the trust, yet it would require clear expression of such intent,** and it cannot be spelled out from
44 language (as that here) which can be given an entirely natural and useful meaning and application excluding
45 such intent."*
46 *[Higley v. Commissioner of Internal Revenue, 69 F.2d. 160 (1934)]*

47 *"A tax is a legal imposition, **exclusively of statutory origin** (37 Cyc. 724, 725), and, naturally, **liability to**
48 **taxation must be read in statute, or it does not exist."***
49 *[Bente v. Bugbee, 137 A. 552, 103 N.J. Law. 608 (1927)]*

1 "...the taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely
2 demanding payment, even repeatedly, does not cause liability."
3 [Terry v. Bothke, 713 F.2d. 1405, at 1414 (1983)]

4 If you want to know more about this subject see:

- 5 1.1. Section 5.6.1 of the Great IRS Hoax, Form #11.302, which covers the subject of no liability in excruciating detail
6 <http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>
7 1.2. The following link:
8 <http://famguardian.org/Subjects/Taxes/Articles/NoStatuteLiable.htm>
9 1.3. Our memorandum of law Requirement for Consent, Form #05.003 proves that the Internal Revenue Code is
10 "private law" and a private contract/agreement. Those who have consented are called "taxpayers" and those who
11 haven't are called "nontaxpayers". This memorandum is available at:
12 <http://sedm.org/Forms/FormIndex.htm>

- 13 2. The federal courts agree that the IRS cannot involuntarily make you into a "taxpayer" when they said the following:

14 "A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power
15 of assessment against individuals not specified in the statutes as a person liable for the tax without an
16 opportunity for judicial review of this status before the appellation of 'taxpayer' is bestowed upon them and
17 their property is seized..."
18 [Botta v. Scanlon, 288 F.2d. 504, 508 (1961)]

- 19 3. IRS has no statutory authority to convert a Social Security Number into a "Taxpayer Identification Number". By the
20 authority of 20 CFR §422.104, Social Security Numbers (SSN) can ONLY be issued to either statutory "U.S. citizens"
21 under 8 U.S.C. §1401 or "permanent residents". Taxpayer Identification Numbers, on the other hand, can ONLY be
22 issued to aliens under the authority of 26 U.S.C. §6109. "Aliens" and "citizens" are NOT interchangeable groups and
23 all "taxpayers" under I.R.C. Subtitle A are "aliens":
24 3.1. 26 U.S.C. §7701(a)(41) defines the phrase "TIN" to mean a number assigned under the authority of 26 U.S.C.
25 §6109, but nowhere are the terms "TIN" and Taxpayer Identification Number" made equivalent in the I.R.C.
26 3.2. 26 CFR §1.1-1(a)(2)(ii) defines a "married individual" and an "unmarried individual" as an "alien" engaged in a
27 "trade or business".
28 3.3. 26 CFR §1.1441-1(c)(3) defines an "individual" as an "alien" or "nonresident alien". Nowhere in the entire
29 Internal Revenue Code or the Treasury Regulations for I.R.C. Subtitle A is the term "individual" ever defined to
30 include "U.S. citizens".

31 [Code of Federal Regulations]
32 [Title 26, Volume 12]
33 [Revised as of April 1, 2006]
34 From the U.S. Government Printing Office via GPO Access
35 [CITE: 26CFR1.1441-1]
36 [Page 62-107]

37 **TITLE 26--INTERNAL REVENUE**
38 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
39 **PART I--INCOME TAXES--Table of Contents**
40 Sec. 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

42 (c) Definitions--(1) Withholding. The term withholding means the deduction and withholding of tax at the
43 applicable rate from the payment.

44 [...]

45 (3) Individual--(i) Alien individual. The term alien individual means an individual who is not a citizen or a
46 national of the United States. See Sec. 1.1-1(c).

47 (ii) Nonresident alien individual. The term nonresident alien individual means a person described in section
48 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an
49 income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of
50 Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American
51 Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an
52 election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a
53 nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations
54 thereunder.

1 3.4. [1 CFR §21.21\(c\)](#) says that agencies of the federal government may NOT use the regulations (and by implication
2 the numbers of) other agencies.
3 4. IRS has no statutory authority to convert employment withholding taxes under I.R.C. Subtitle C into "income taxes"
4 under I.R.C. Subtitle A. *Great IRS Hoax*, Form #11.302 section 5.6.8 shows that employment withholding taxes
5 deducted under the authority of Subtitle C of the Internal Revenue Code using a W-4 voluntary withholding agreement
6 and that the IRS classifies them in IRS Document 6209 as "Tax Class 5", which is "Estate and gift taxes". Therefore,
7 they are gifts to the U.S. government, not taxes that may not be enforced. It is also shown in Section 5.6.8 of the *Great*
8 *IRS Hoax*, Form #11.302 that taxes paid under the authority of Subtitle A of the Internal Revenue Code are classified
9 as Tax Class 2, "Individual Income Tax". It is also exhaustively proven with evidence in Section 5.6.16 of the *Great*
10 *IRS Hoax*, Form #11.302 that IRS has no statutory or regulatory authority to convert what essentially amounts to a
11 voluntary "gift" paid through withholding to a "tax". Only you can do that by assessing yourself. That is why the
12 1040 form requires that you attach the information returns to it, such as the W-2: So that the gift and the tax are
13 reconciled and so that the accuracy of the W-2, which is unsigned hearsay evidence, is guaranteed by the penalty of
14 perjury signature on the IRS Form 1040 itself.

15 The consequence of the IRS not having any lawful authority to make anyone into a "taxpayer" is that they cannot do a
16 lawful Substitute For Return (SFR) or penalty assessment under I.R.C. Subtitle A, as you will learn later.

17 If you have been the victim of an involuntary IRS assessment and do a Freedom of Information Act (FOIA) request for
18 assessment documents as we have, and you examine all of the documents returned, you will not see even one document
19 signed by any IRS employee that purports to be an assessment and which has your name on it as the only subject of the
20 assessment. The reason they won't sign the assessment document, such as the IRS Form 23C or the RACS 006 Report,
21 under penalty of perjury is that no one is STUPID enough to accept legal liability for violating the Constitution and the
22 rights of those they have done wrongful assessments against. The IRS knows these people are involved in wrongdoing,
23 which is why they assign "pseudo names" (false names) to their employees: To protect them from lawsuits against them for
24 their habitual violation o f the law. The documents you will get back from the IRS in response to your FOIA include the
25 following forms, none of which are signed by the IRS employee:

- 26 1. [Form 886-A: Explanation of Terms](#)
- 27 2. [Form 1040: Substitute For Return \(SFR\)](#)
- 28 3. [Form 3198: Special Handling Notice](#)
- 29 4. [Form 4549: Income Tax Examination Changes](#)
- 30 5. [Form 4700: Examination Work Papers](#)
- 31 6. [Form 5344: Examination Closing Record](#)
- 32 7. [Form 5546: Examination Return Charge-Out](#)
- 33 8. [Form 5564: Notice of Deficiency Waiver](#)
- 34 9. [Form 5600: Statutory Notice Worksheet](#)
- 35 10. [Form 12616: Correspondence Examination History Sheet](#)
- 36 11. [Form 13496: IRC Section 6020\(b\) Certification](#)

37 If you want to look at samples of the above forms, see section 6 of the link below, under the column "Examples":

38 Federal Forms and Publications
39 <http://famguardian.org/TaxFreedom/Forms/IRSFormsPubs.htm>

40 We have looked at hundreds of these assessment documents and *every one* of them is required by [26 U.S.C. §6065](#) to be
41 signed under penalty of perjury by the IRS employee who prepared them but *none* are. As a matter of fact, the examination
42 documents prepared by the IRS Examination Branch to do the illegal Substitute for Returns (involuntary assessments)
43 purport to be a "proposal" rather than an involuntary assessment, have no signature of an IRS employee, and the only
44 signature is from the "taxpayer", who must consent to the assessment in order to make it lawful. See, for instance, IRS
45 Forms 4549 and 5564. What they do is procure the consent invisibly using a commercial default process by ignoring your
46 responsive correspondence, and therefore "assume" that you consented. This, ladies and gentlemen, is constructive
47 FRAUD, not justice. It is THEFT! The IRS Form 12616 above is the vehicle by which they show that the "taxpayer"
48 consented to the involuntary assessment, because they can't do ANYTHING without his consent.

1 Furthermore, [28 U.S.C. §2201](#) also removes the authority of federal courts to declare the status of “taxpayer” on a
2 sovereign American also!:

3 *United States Code*
4 TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
5 PART VI - PARTICULAR PROCEEDINGS
6 CHAPTER 151 - DECLARATORY JUDGMENTS
7 Sec. 2201. Creation of remedy

8 (a) In a case of actual controversy within its jurisdiction, **Except** with respect to Federal taxes other than
9 actions brought under section 7428 of the Internal Revenue Code of 1986, a proceeding under section 505 or
10 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a
11 class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of
12 1930), as determined by the administering authority, any court of the United States, upon the filing of an
13 appropriate pleading, may declare the rights and other legal relations of any interested party seeking such
14 declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and
15 effect of a final judgment or decree and shall be reviewable as such.

16 (b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food,
17 Drug, and Cosmetic Act.

18 The federal courts themselves agree that they do not have the jurisdiction to bestow the status of “taxpayer” upon someone
19 who is a “nontaxpayer”:

20 “*And by statutory definition the term “taxpayer” includes any person, trust or estate **subject to** a tax imposed by*
21 *the revenue act. ...Since the statutory definition of taxpayer is exclusive, the federal [and state] courts do not*
22 *have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue*
23 *Acts...”*
24 *[C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d.18 (1939)]*

25 26 U.S.C. §1461 is the only statute within the Internal Revenue Code, Subtitle A which creates an explicit liability or “legal
26 duty”. That duty is enforceable only against those subject to the I.R.C., who are “taxpayers” with “gross income” above the
27 exemption amount identified in 26 U.S.C. §6012. All amounts reported by third parties on Information Returns, such as the
28 IRS Forms W-2, 1042-S, 1098, and 1099, document receipt of “trade or business” earnings. All “trade or business”
29 earnings, as defined in 26 U.S.C. §7701(a)(26), are classified as “gross income”. A nonresident alien who has these
30 information returns filed against him or her becomes his or her own “withholding agent”, and must reconcile their account
31 with the federal government annually by filing a tax return. This is a requirement of all those who are engaged in a “public
32 office”, which is a type of business partnership with the federal government. That business relationship is created through
33 the operation of private contract and private law between you, the natural person, and the federal government. The method
34 of consenting to that contract is any one of the following means:

- 35 1. Assessing ourselves with a liability shown on a tax return.
- 36 2. Voluntarily signing a W-4, which is identified in the regulations as an “agreement” to include all earnings in the
37 context of that agreement as “gross income” on a 1040 tax return. See 26 CFR §31.3402(p)-1(a). For a person who is
38 not a “public official” or engaged in a “public office”, the signing of the W-4 essentially amounts to an agreement to
39 procure “social services” and “social insurance”. You must bribe the Beast with over half of your earnings in order to
40 convince it to take care of you in your old age.
- 41 3. Completing, signing, and submitting an IRS Form 1040 or 1040NR and indicating a nonzero amount of “gross
42 income”. Nearly all “gross income” and all information returns is connected with an excise taxable activity called a
43 “trade or business” pursuant to [26 U.S.C. §871](#)(b) and [26 U.S.C. §6041](#), which activity then makes you into a
44 “resident”. See older versions of 26 CFR §301.7701-5:
<http://famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>
- 45 4. Filing information returns on oneself or not rebutting information returns improperly filed against us, such as the Forms
46 W-2, 1042-S, 1098, and 1099. Pursuant to [26 U.S.C. §6041](#)(a), all of these federal forms associate all funds
47 documented on them with the taxable activity called a “trade or business”. If you are not a federal “employee” or a
48 “public officer”, then you can’t lawfully earn “trade or business” income. See the following for details:
 - 49 4.1. [26 U.S.C. §6041](#).
 - 50 4.2. [The “Trade or Business” Scam](#), Form #05.001
<http://sedm.org/Forms/FormIndex.htm>

- 1 4.3. *Correcting Erroneous IRS Form 1042's*, Form #04.003:
2 <http://sedm.org/Forms/FormIndex.htm>
3 4.4. *Correcting Erroneous IRS Form 1098's*, Form #04.004:
4 <http://sedm.org/Forms/FormIndex.htm>
5 4.5. *Correcting Erroneous IRS Form 1099's*, Form #04.005:
6 <http://sedm.org/Forms/FormIndex.htm>
7 4.6. *Correcting Erroneous IRS Form W-2's*, Form #04.006:
8 <http://sedm.org/Forms/FormIndex.htm>
9 5. Allowing Currency Transaction Reports (CTR's), IRS Form 8300, to be filed against us when we withdraw 10,000 or
10 more in cash from a financial institution. The statutes at 31 U.S.C. §5331 and the regulation at 31 CFR §103.30(d)(2)
11 only require these reports to be filed in connection with a "trade or business", and this "trade or business" is the same
12 "trade or business" referenced in the Internal Revenue Code at 26 U.S.C. §7701(a)(26) and 26 U.S.C. §162. If you are
13 not a "public official" or if you do not consent to be treated as one in order to procure "social insurance", then banks
14 and financial institutions are violating the law to file these forms against you. See:
15 *The "Trade or Business" Scam*, Form #05.001
16 <http://sedm.org/Forms/FormIndex.htm>
17 6. Completing and submitting the Social Security Trust document, which is the SSA Form SS-5. This is an agreement
18 that imposes the "duty" or "fiduciary duty" upon the natural person and makes him into a "trustee" and an officer of a
19 the federal corporation called the "United States". The definition of "person" for the purposes of the criminal
20 provisions of the Internal Revenue Code, codified in *26 U.S.C. §7343*, incidentally is EXACTLY the same as the
21 above. Therefore, all tax crimes require that the violator must be acting in a fiduciary capacity as a Trustee of some
22 kind or another, whether it be as an Executor over the estate of a deceased "taxpayer", or over the Social Security Trust
23 maintained for the benefit of a living trustee/employee of the federal corporation called the "United States
Government". See the following for details:
24 *Resignation of Compelled Social Security Trustee*, Form #06.002
25 <http://sedm.org/Forms/FormIndex.htm>

26 Unless and until we do any of the above, our proper title is "nontaxpayer". The foundation of American Jurisprudence is
27 the presumption that we are "innocent until proven guilty", which means that we are a "nontaxpayer" until the government
28 proves with court-admissible evidence signed under penalty of perjury that we are a "taxpayer" who is participating in
29 government franchises that are subject to the excise tax upon a "trade or business" which is described in I.R.C. Subtitle A.
For cases dealing with the term "nontaxpayer" see: Long v. Rasmussen, 281 F. 236, 238 (1922); Rothenhis 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).

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

34 *"The distinction between persons and things within the scope of the revenue laws and those without is vital."*
35 *[Long v. Rasmussen, 281 F. 236, 238 (1922)]*

36 Since the above ruling, Congress has added new provisions to the I.R.C. which obtusely mention "nontaxpayers", but not
37 by name, because they don't want people to have a name to describe their proper status. The new provision is found in *26*
U.S.C. §7426, and in that provision of the I.R.C., "nontaxpayers" are referred to as "Persons other than taxpayers". So far
38 as we know, this is the ONLY provision within the I.R.C. that provides any remedy or standing to a "nontaxpayer".
39

40 The behavior of the IRS confirms the above conclusions. See the following IRS internal memo proving that a return that is
41 signed under penalty of perjury and saying "not liable" or words to that effect is treated as a non-return:

42 <http://famguardian.org/TaxFreedom/Evidence/Refunds/1998-053IRSMemoZeroRet.pdf>

43 Look what the above internal top secret IRS memo says (are they trying to hide something?.. cover-up and obstruction of
44 justice!). Pay particular attention to the use of the word "taxpayer" in this excerpt, by the way, which doesn't include most
45 people:

1 "A taxpayer can also negate the penalties of perjury statement with an addition. In Schmitt v. U.S., 140 B.R.
2 571 (Bank W.D. Okl. 1992), the taxpayers filed a return with the following statement at the end of the penalties
3 of perjury statement, "SIGNED UNDER DURESS, SEE STATEMENT ATTACHED." In the addition, the
4 taxpayers denied liability for tax on wages. The Service argued that the statement, added to the "return",
5 qualified the penalties of perjury statement, thus making the penalties of perjury statement ineffective and the
6 return a nullity. *Id.* at 572.

7 In agreeing with the Service, the court pointed out that the voluntary nature of our tax system requires the
8 Service to rely on a taxpayer's self-assessment and on a taxpayer's assurance that the figures supplied are true
9 to the best of his or her knowledge. *Id.* Accordingly, the penalties of perjury statement has important
10 significance in our tax system. The statement connects the taxpayer's attestation of tax liability (by the signing
11 of the statement) with the Service's statutory ability to summarily assess the tax.

12 Similarly, in Sloan v. Comm'r, 53 F.3d. 799 (7th Cir. 1995), cert. denied, 516 U.S. 897 (1995), the taxpayers
13 submitted a return containing the words "Denial & Disclaimer attached as part of this form" above their
14 signatures. In the addition, the taxpayers denied liability for any individual income tax. In determining the
15 effect of the addition on the penalties of perjury statement, the court reasoned that it is a close question whether
16 the addition negates the penalties of perjury statement or not. The addition, according to the court, could be
17 read just to mean that the taxpayers reserve their right to renew their constitutional challenge to the federal
18 income tax law. However, the court concluded that the addition negated the penalties of perjury statement. *Id.*
19 at 800.

20 In both Schmitt and Sloan the court questioned the purpose of the addition. Both courts found that the addition
21 of qualifying language was intended to deny tax liability. Accordingly, this effect rendered the purported
22 returns invalid."

23 The reason is clear: If you are a "nontaxpayer" who is "not liable", then you essentially are outside their jurisdiction and
24 can't even ask for a refund of the money you paid in. All of your property is consequently classified as a "foreign estate",
25 as defined in 26 U.S.C. §7701(a)(31):

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

28 (a)(31) Foreign estate or trust

29 (A) Foreign estate

30 The term "foreign estate" means an estate the income of which, from sources without the United States which is
31 not effectively connected with the conduct of a trade or business within the United States, is not includable in
32 gross income under subtitle A.

33 If you indeed are a "nontaxpayer" and act like one, the IRS will pretend like you don't even exist, that is, until in their
34 ignorance and greed they try years later to go after you wrongfully and unlawfully for willful failure to file, notice of
35 deficiency, or some other contrived nonsense to terrorize you into paying and filing again. That's how they make
36 "nontaxpayers" "volunteer" into becoming "taxpayers": with terrorism and treason against the rights of sovereign
37 Americans, starting with "mailing threatening, false, and harassing communications" in violation of 18 U.S.C. §876.
38 Lawyer hypocrites! Jesus was right!

39 "Woe to you, scribes and Pharisees, hypocrites! For you pay tithe of mint and anise and cummin, and have
40 neglected the weightier matters of the law: justice and mercy and faith. These you ought to have done,
41 without leaving the others undone."
42 [Matt. 23:23, Bible]

43 Now that we understand the difference between "taxpayer" and a "nontaxpayer", allow us to make a very critical
44 distinction that is the Achilles Heel of the IRS fraud. Ponder for a moment in your mind the following very insightful
45 question:

46 "Is a person in law always either a 'taxpayer' or a 'nontaxpayer' as a whole? Can a person simultaneously be
47 BOTH?"

48 Once you understand the answer to this crucial question, you will understand how to get your money back in an IRS refund
49 claim without litigating! The answer, by the way, is YES! Let us now explain why this is the case.

1 We said above that if you are a “nontaxpayer”, the IRS will basically try to completely ignore your refund claim and you
2 are lucky if they even respond. At worst, they will illegally try to penalize you and at best, they will ignore you. We must
3 remember, however, that it is “*taxable income*” that makes you a “*taxpayer*”. “*Taxable income*” is “*gross income*” minus
4 “*deductions*”, as described in 26 U.S.C. §63(a). Therefore, we must earn “*gross income*” as legally defined in order to have
5 “*taxable income*”. One cannot earn “*gross income*” unless they fit into one of the following categories:

- 6 1. **Domestic taxable activities:** Activities within the “United States”, which is defined in 26 U.S.C. §7701(a)(9) and
7 (a)(10) as the District of Columbia.
 - 8 1.1. Federal “Employees”, Agencies, and “Public Officials” – meaning those who are federal “public officers”, federal
9 “employees”, and elected officials of the national government. This is one reason why 26 U.S.C. §6331(a) lists
10 only federal officers, federal employees, federal instrumentalities, and elected officials as ones who can be served
11 with a levy upon their compensation, which is actually a payment from the federal government.
 - 12 1.2. Federal benefit recipients. These people are receiving “social insurance” payments such as Medicare, Social
13 Security, or Unemployment. These benefits are described as “gross income” in 26 U.S.C. §871(a)(3). When they
14 signed up for these programs, they became “trustees”, “employees”, and instrumentalities of the U.S. government.
15 They are described as “federal personnel” in the Privacy Act, 5 U.S.C. §552a(a)(13). Neither the Constitution nor
16 the Social Security Act authorize these benefits to be offered to anyone domiciled outside of federal territories
17 and possessions. For details on this scam, see:

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

- 18 1.3. Those who operate in a representative capacity in behalf of the federal government via contract. This includes
19 those who have a valid Taxpayer Identification Number, which constitutes a constructive trust contract with the
20 federal government and use that federal property [number] as per 20 CFR §422.103(d). They are identified as
21 federal trustees and/or federal employees as referenced in 20 CFR “Employee Benefits”. For details on this scam,
22 see:

Resignation of Compelled Social Security Trustee, Form #06.002
<http://sedm.org/Forms/FormIndex.htm>

- 23 2. **Foreign taxable activities:** Activities in the states of the Union or abroad.

- 24 2.1. Domiciliaries of the federal zone abroad and in a foreign country pursuant to 26 U.S.C. §911 who are engaged in
25 a “trade or business”:
 - 26 2.1.1. Statutory “U.S. citizens” - those are federal statutory creations of Congress and defined specifically at 8
27 U.S.C. §1401 to be those who were born in a U.S. territory or possession AND who have a legal domicile
28 there.
 - 29 2.1.2. Statutory “Residents” (aliens). These are foreign nationals who have a legal domicile within the District of
30 Columbia or a federal territory or possession. They are defined in 26 U.S.C. §7701(b)(1)(A) and 8 U.S.C.
31 §1101(a)(2).

If you would like to know more about why the above are the only foreign subjects of taxation, see:

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

- 32 2.2. States of the Union. Neither the IRS nor the Social Security Administration may lawfully operate outside of the
33 federal zone. See:
 - 34 2.2.1. 4 U.S.C. §72 limits all “public offices” to the District of Columbia. It says that the “public offices” that are
35 the subject of the tax upon a “trade or business” must be exercised ONLY in the District of Columbia and
36 not elsewhere, except as expressly provided by law.
 - 37 2.2.2. 26 U.S.C. §7601 limits IRS enforcement to internal revenue districts. The President is authorized to
38 establish internal revenue districts pursuant to 26 U.S.C. §7621, but he delegated that authority to the
39 Secretary of the Treasury pursuant to Executive Order 10289. Treasury Order 150-02, signed by the
40 Secretary of the Treasury, says that the only remaining internal revenue district is in the District of
41 Columbia. It eliminated all the other internal revenue districts.
 - 42 2.2.3. 26 U.S.C. §7701(a)(9) and (a)(10) define the term “United States” as the District of Columbia. Nowhere
43 anywhere else is the tax described in Subtitle A expanded to include anyplace BUT the “United States”.
 - 44 2.2.4. The U.S. Supreme Court said Congress enjoys NO LEGISLATIVE JURISDICTION within states of the
45 Union and the Internal Revenue Code is “legislation”.

47 “It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247
48 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the
49 internal affairs of the states; and emphatically not with regard to legislation.”
50 [Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]

1 "The difficulties arising out of our dual form of government and the opportunities for differing opinions
2 concerning the relative rights of state and national governments are many; but for a very long time this court
3 has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or
4 their political subdivisions. The same basic reasoning which leads to that conclusion, we think, requires like
5 limitation upon the power which springs from the bankruptcy clause. *United States v. Butler, supra.*"
6 [Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513, 56 S.Ct. 892 (1936)]

7 2.2.5. The U.S. Supreme Court said Congress Cannot establish a “trade or business” in a state and tax it. A “trade
8 or business” is the main subject of Subtitle A of the Internal Revenue Code. See the following court cite:

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

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

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

26 Based on options above, most people do not have “gross income” as legally defined, and they are actually deceiving the
27 government if they put anything but zero on their income tax return. Because none of the earnings of the typical person
28 who is employed in the private sector can legally be classified as either “income” or “gross income”, what you put down for
29 “gross income” on your tax return boils down to the question of:

30 "How much of my receipts do I want to ‘volunteer’ or ‘elect’ or ‘choose’ to call ‘income’ or ‘gross income’ for
31 the purposes of federal taxes?"

32 How you choose to answer that question then determines the net “donation” (not “tax”, but “donation”) you are making to
33 the federal government based on the tax rate schedule that your fictitious and fabricated “gross income” falls into. As the
34 Great IRS Hoax, Form #11.302 said at the beginning of chapter 5 section 5.1.5, the income tax is “voluntary” and it really
35 meant it! Not only that, but the U.S. Supreme Court agrees with us!

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

38 Returning to our original question, then, “*Can a person be simultaneously BOTH a ‘taxpayer’ and a ‘nontaxpayer’?*”, the
39 answer is YES. Why? Because so long as we as biological people aren’t “employees” (synonymous with elected or
40 appointed officers of the U.S. government) any amount we put down for “gross income” on our tax return is a *voluntary*
41 *choice* and not REAL “gross income” as legally defined. That amount, and ONLY that amount, which we volunteer to
42 define as “gross income” on our tax return makes us into a “*taxpayer*”, but only for the specific *sources* of revenue we
43 voluntarily identified as “gross income”! All other monies that we earned are, by definition and implication, not taxable
44 and not “gross income”, which means that for those “*sources*” of revenue that are not “gross income”, we are a
45 “nontaxpayer” and NOT a “taxpayer”.

46 So when someone asks you if you are a “taxpayer”, both the question and your answer must be put in the context of a
47 specific source of income. You should respond by first asking: “for which revenue *source*?”. The answer can seldom be a
48 general “yes” or “no” for ALL RECEIPTS. Consequently, if we put down one cent for “gross income” on our tax return,
49 then ONLY for that source of revenue do we become “taxpayers”. All other sources of revenue for us are, by implication,
50 NOT either “gross income” or “taxable income”, which means that for those revenues and receipts, we are a
51 “nontaxpayer”. Furthermore, once we make the determination of “gross income” and self-assessment on the tax return that

1 only we can do on ourselves, the IRS has NO AUTHORITY to make us into a “taxpayer” or assess us an involuntary
2 liability associated with any receipts other than those that we specifically identify as “gross income”:

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

5 Remember, the only amount we are responsible for paying is the amount we assess ourselves that appears on a tax return
6 that ONLY WE FILL OUT. The Internal Revenue Manual, Section 5.1.11.6.8 confirms that the IRS is NOT
7 AUTHORIZED to do a Substitute For Return (SFR) on our behalf for the IRS Form 1040 or any of its derivatives (e.g.
8 1040X, 1040EZ, 1040NR, etc). Furthermore, [26 CFR §1.6151-1](#) confirms that you are only responsible for paying the
9 amount shown on a return (because it says “shall pay”).

10 [Code of Federal Regulations]
11 [Title 26, Volume 12]
12 [Revised as of April 1, 2002]
13 From the U.S. Government Printing Office via GPO Access
14 [CITE: 26CFR1.6151-1]

15 [Page 980]

16 **TITLE 26--INTERNAL REVENUE**
17 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
18 **(CONTINUED)**

19 **Procedure and Administration--Table of Contents**

20 [Sec. 1.6151-1 Time and place for paying tax shown on returns.](#)

21 (a) In general. Except as provided in section 6152 and paragraph (b) of this section, **the tax shown on any**
22 **income tax return shall, without assessment or notice and demand, be paid to the internal revenue officer**
23 **with whom the return is filed at the time fixed for filing the return** (determined without regard to any
24 extension of time for filing the return). For provisions relating to the time for filing income tax returns, see
25 section 6072 and Secs. 1.6072-1 to 1.6072-4, inclusive. For provisions relating to the place for filing income tax
26 returns, see section 6091 and Secs. 1.6091-1 to 1.6091-4, inclusive.

27 (b)(1) Returns on which tax is not shown. If a taxpayer files a return and in accordance with section 6014
28 and the regulations thereunder, elects not to show the tax on the return, the amount of tax determined to be due
29 shall be paid within 30 days after the date of mailing to the taxpayer a notice stating the amount payable and
30 making demand upon the taxpayer therefor. However, if the notice is mailed to the taxpayer more than 30 days
31 before the due date of the return, payment of the tax shall not be required prior to such due date.

32 **26 U.S.C. §6020(b)** does not authorize the IRS to do an assessment on you because only you (as the “sovereign”) can do an
33 assessment on yourself for a voluntary donation program called the Internal Revenue Code, Subtitle A. The only exception
34 to this rule is under [26 U.S.C. §6014](#), where you can delegate to the IRS the authority to do a return on your behalf, which
35 we don’t recommend. Are you beginning to see through the fog? It took us four years of diligent study to figure this scam
36 out and we are trying to save you some time.

37 We wish to conclude this section by revealing some very important implications of being a "nontaxpayer" that we need to
38 be very aware of in order to avoid jeopardizing our status and creating a false presumption that we are a "taxpayer", which
39 are summarized below:

40 1. You cannot quote any section of the Internal Revenue Code that requires you to be a "taxpayer" in order to claim its
41 benefit. For instance, 26 U.S.C. §7433, which purports to allow anyone to file a suit against an IRS agent for wrongful
42 collection actions, says the following:

43 [TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter B > § 7433](#)
44 [§ 7433. Civil damages for certain unauthorized collection actions](#)

45 (a) In general If, **in connection with any collection of Federal tax with respect to a taxpayer**, any officer or
46 employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregards any
47 provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for
48 damages against the United States in a district court of the United States. Except as provided in section [7432](#),
49 such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

50 Note the phrase above “with respect to a taxpayer”, which are no accident. If you are a “nontaxpayer”, then you have
51 no recourse under the above statute. HOWEVER, you still have recourse under the constitution for deprivation of

1 property without due process of law under the Fifth Amendment. If you filed a lawsuit against an IRS agent, your
2 remedy would then have come from citing the Constitution and possibly also cite the criminal code, which is also
3 positive law, but NOT any part of the I.R.C.

- 4 2. You cannot call the Internal Revenue Code "law" or a "statute", but only a "code" or a "title". It can only be "law" if
5 you are a "taxpayer". What makes anything "law" is your consent, according to the Declaration of Independence, and
6 calling the IRC "law" is an admission that you consent to its provisions and are subject to them. See Sections 5.4.1
7 through 5.4.3.6 of the Great IRS Hoax, Form #11.302 for details on this scam.
8 3. You cannot fill out and submit any form that can only be used by "taxpayers" nor can you sign any form that uses the
9 word "taxpayer" to identify you. Family Guardian has gone through and created substitute versions of most major IRS
10 Forms to remove such false presumptions from the forms at:
11 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>
12 4. When you get an IRS notice that either calls you a "taxpayer" or uses a "Taxpayer Identification Number" (TIN)", then
13 the notice is in error and you have a duty to bring this to the attention of the IRS. Only "taxpayers" can have a TIN.
14 Below is an example form which satisfies this purpose:

Wrong Party Notice, Form #07.105

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

- 15 5. You must include the following language in all your correspondence with the tax authorities in order to emphasize your
16 status as a "nontaxpayer":

17 *I look forward to being corrected promptly in anything you believe is inconsistent with reality found in this*
18 *correspondence or any of its attachments. If you do not respond, I shall conclude that you believe I am a*
19 *"nontaxpayer" who is neither subject to nor liable for any internal revenue tax.*

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

25 *"The distinction between persons and things within the scope of the revenue laws and*
26 *those without is vital."*
27 *[Long v. Rasmussen, 281 F. 236, 238 (1922)]*

28 *I remind you that your own IRS mission statement says that you can only help "taxpayers" to understand their*
29 *tax responsibilities and therefore, if you won't talk with me, the only thing I can logically conclude is that I must*
30 *not be a "taxpayer" and instead am a "nontaxpayer" not subject to any provision within the I.R.C. In that*
31 *case, thank you for confirming that I am person outside your jurisdiction and not "liable" for any internal*
32 *revenue tax:*

33 *IRM 1.1.1.1 (02-26-1999)*
34 *IRS Mission and Basic Organization*

35 *The IRS Mission: Provide America's taxpayers top quality service by helping them*
36 *understand and meet their tax responsibilities and by applying the tax law with integrity*
37 *and fairness to all.*

- 38 6. Any IRS publication addressed to "taxpayers" isn't meant for you and you cannot rely upon it. For instance, IRS
39 Publication 1 is entitled Your Rights as a Taxpayer. The title of this publication is an oxymoron: Taxpayers don't have
40 rights! A "nontaxpayer" cannot cite this pamphlet as authority for defending his rights. We called the IRS and asked
41 them if they have an equivalent pamphlet for "nontaxpayers" and they said no. Then we asked whether the rights
42 mentioned in the pamphlet also apply to "nontaxpayers" and they reluctantly said "yes". Someone wrote an
43 "improved" version of this pamphlet below:

Your Rights as a "Nontaxpayer", Form #08.007
<http://sedm.org/Forms/FormIndex.htm>

1 **3 How sovereign people domiciled in states of the Union are deceived and tricked**
2 **into illegally becoming “U.S. persons” subject to federal law**

3 There is no way as a person domiciled within a state of the Union and thereby not “protected” by the national government
4 to lawfully become a “citizen”, “resident”, “inhabitant”, or “U.S. person” in relation to the national government without
5 committing perjury under penalty of perjury usually on government forms by:

6 1. Responding to questions about your citizenship and domicile improperly:

7 1.1. Mis-declaring your citizenship or domicile or “residence”.

8 1.2. Ambiguously declaring your citizenship or domicile or “residence”.

9 1.3. Using words that are not defined on the form to describe your citizenship or domicile. See:

10 To prevent all of the above problems, use the following form:

Tax Form Attachment, Form #04.201

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

11 2. Opening up bank or financial accounts WITHOUT using the proper form, which is an AMENDED IRS Form W-
12 8BEN. If you don’t use this form or a derivative and invoke the protection of the law for your status as a nonresident
13 alien not engaged in a “trade or business”, the financial institution will falsely, prejudicially, and illegally “presume”
14 that you are both a statutory “U.S. citizen” pursuant to [8 U.S.C. §1401](#) and a “U.S. person” pursuant to [26 U.S.C.](#)
15 [§7701\(a\)\(30\)](#). This causes them to commit the crime of “impersonating a U.S. citizen” pursuant to 18 U.S.C. §911. To
16 prevent this problem, see the following article:

About IRS Form W-8BEN, Form #04.202

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

17 3. Filing the WRONG tax form, the IRS Form 1040, rather than the correct IRS 1040NR Form. This constitutes an
18 election to become a “resident alien” engaged in a “trade or business”, pursuant to [26 U.S.C. §7701\(b\)\(4\)\(B\)](#) and [26](#)
19 [U.S.C. §6013\(g\)](#) and (h). Unless you are a nonresident alien married to a statutory “U.S. citizen”, it is ILLEGAL for a
20 nonresident alien to make an election to be treated as a “resident alien” by filing an IRS Form 1040. This can be
21 prevented using the following form, for instance:

Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government-Long, Form #15.001

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

22 4. Applying for or accepting a government benefit, privilege, or license, such as Social Security, Medicare, or TANF.
23 This would require the nontaxpayer to fill out an SSA Form SS-5. Submission of this form causes a waiver of
24 sovereign immunity under [28 U.S.C. §1605\(a\)\(2\)](#) and makes you into a “resident alien” who is a “public officer”
25 within the government granting the privilege or benefit. Pursuant to 20 CFR §422.104, it is UNLAWFUL for a person
26 who is a constitutional but not statutory “citizen” or “resident” of the federal zone to even apply for Social Security.
27 See:

Government Instituted Slavery Using Franchises, Form #05.030

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

28 5. Filling out a federal or state government form incorrectly by describing yourself as a statutory “U.S. citizen” pursuant
29 to [8 U.S.C. §1401](#) rather than a “national but not a citizen” pursuant to [8 U.S.C. §1101\(a\)\(21\)](#) and [8 U.S.C. §1452](#).
30 This can be prevented by attaching the following form:

Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001

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

31 6. Improperly declaring your citizenship status to a federal court or not declaring it at all. If you describe yourself as a
32 “citizen” or a “U.S. citizen” without further clarification, or if you don’t describe your citizenship at all in court
33 pleadings, then federal courts will self-servingly “presume” that you are a statutory rather than constitutional citizen
34 pursuant to [8 U.S.C. §1401](#) who has a domicile on federal territory. This is also confirmed by the following
35 authorities:

36 “The term ‘citizen’, as used in the Judiciary Act with reference to the jurisdiction of the federal courts, is
37 substantially synonymous with the term ‘domicile’. [Delaware, L. & W.R. Co. v. Petrowsky](#), 2 Cir., 250 F. 554,
38 557.”

39 [Earley v. Hershey Transit Co., 55 F.Supp. 981, D.C.PA. (1944)]

40 “Domicile [in the federal zone, not states of the Union] and citizen are synonymous in federal courts, Earley v.
41 Hershey Transit Co., D.C. Pa., 55 F.Supp. 981, 982; inhabitant, resident and citizen are synonymous, Standard
42 Stoker Co. v. Lower, D.C.Md., 46 F.2d. 678, 683.”

2 To prevent this problem, use the following attachment to all the filings in the court:

Federal Pleading/Petition/Motion Attachment, Litigation Tool #01.002
<http://sedm.org/Litigation/LitIndex.htm>

3 It is a crime pursuant to 18 U.S.C. §911 to impersonate a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401 or to falsely
4 portray yourself as one, whether you knew you were doing it or not. In that sense, you must become a criminal under
5 man’s law to join the socialist democracy that your corrupt politicians have created to insulate you from responsibility for
6 yourself and to participate in “social insurance”. If you would like some pointers to help you lawfully and correctly
7 describe your domicile and citizenship status on government forms, we highly recommend the following very useful
8 resource:

Why You are a “National”, “State National”, and Constitutional but not Statutory Citizen, Form #05.006
<http://sedm.org/Forms/FormIndex.htm>

9 If you would like to disassociate politically, legally, and commercially from this corruption socialist democracy and correct
10 all the erroneous government records incorrectly describing your status that you have unwittingly accumulated over the
11 years in submitting government forms containing false information about yourself, see:

Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001
<http://sedm.org/Forms/FormIndex.htm>

12 If you would like to learn more about why income taxes are not voluntary for “taxpayers”, but why the decision to
13 BECOME a “taxpayer” is voluntary and therefore avoidable, see:

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002
<http://sedm.org/Forms/FormIndex.htm>

14 4 What is a “return”?

15 The Internal Revenue Code defines the term “return” as follows:

16 26 U.S.C. §6213(g): Restrictions Applicable to deficiencies; petition to Tax Court

17 (g) Definitions

18 For purposes of this section -

19 (I) Return

20 The term “return” includes any return, statement, schedule, or list, and any amendment or supplement thereto,
21 filed with respect to any tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44.

23 TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter B > § 6103
24 § 6103. Confidentiality and disclosure of returns and return information

25 (b) Definitions For purposes of this section—

26 (I) Return

27 The term “return” means any tax or information return, declaration of estimated tax, or claim for refund
28 required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by,
29 on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting
30 schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

1 Consequently, anything that identifies itself as a “statement or list” constitutes a “return” for the purposes of Tax Court
2 deficiencies. Federal courts have also helped to clarify the meaning of “return”, and they imply that if the intention of the
3 submitter was to obtain a “refund” under the authority of any provision of the I.R.C., then the submittal constitutes a
4 “return”:

5 *Taxpayers argue that § 6702 does not apply to them in that the Form 1040 that they filed was not a “purported
6 return.” While taxpayers did write on the forms the words “not a tax return,” the form was undeniably filed to
7 obtain a refund of the taxes withheld from their wages for which the filing of a return is necessary. 26 CFR
8 §301.6402-3(a)(1) (1983). As stated a district court that recently faced this same situation:*

9 *Since the plaintiffs' stated purpose was to obtain a refund, the documents submitted must be deemed to be
10 purported tax returns for purposes of Section 6702. It is true that the plaintiffs wrote on the forms that they
11 were not returns, but this disclaimer has no effect in light of the plaintiffs' stated purpose to have the
12 documents treated as returns. If such a disclaimer were sufficient to avoid liability under Section 6702, tax
13 protesters could flood the IRS with frivolous tax returns bearing similar disclaimers without penalty.”*

14 *Nichols v. United States, 575 F.Supp. 320, 322(D.Minn.1983). Thus, the Form 1040 was a purported return,
15 and the district court correctly granted summary judgment on the issue of the penalty under § 6702.
16 [Davis v. U.S., 742 F.2d. 171, 54 A.F.T.R.2d 84-6084, 84-2 USTC P 9808]*

17 If you electronically search the entire I.R.C. as we did, in fact, you will also find several references to the phrase “return of
18 income”. Even more interesting is the definition of what a “return of income” is. After careful examination of all statutes
19 that mention “returns”, we conclude based on the preponderance of evidence that it really means a “return of income”,
20 which is a fancy way of describing a “kickback” or “bribe” given by federal “public officers” to their “employer” and
21 franchise tax administrator, the federal government. Below are just a few examples from the “code” that prove that a
22 “return” is actually a payment to the government, and not simply a paper document as the IRS would have you mistakenly
23 believe:

24 **26 U.S.C. §6012.** Persons required to make returns of income

25 (a) General rule

26 **Returns with respect to income** taxes under subtitle A shall be made by the following:

27 (1) (A) Every individual having for the taxable year gross income which equals or exceeds the exemption
28 amount, except that a return shall not be required of an individual –

30 **26 U.S.C. §7508.** Time for performing certain acts postponed by reason of service in combat zone

31 (a) Time to be disregarded

32 *In the case of an individual serving in the Armed Forces of the United States, or serving in support of such
33 Armed Forces, in an area designated by the President of the United States by Executive order as a "combat
34 zone" for purposes of section 112, at any time during the period designated by the President by Executive order
35 as the period of combatant activities in such zone for purposes of such section, or hospitalized as a result of
36 injury received while serving in such an area during such time, the period of service in such area, plus the
37 period of continuous qualified hospitalization attributable to such injury, and the next 180 days thereafter, shall
38 be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any
39 interest, penalty, additional amount, or addition to the tax) of such individual -*

40 (1) Whether any of the following acts was performed within the time prescribed therefor:

41 (A) **Filing any return of income**, estate, or gift tax (except income tax withheld at source and income tax
42 imposed by subtitle C or any law superseded thereby);

44 **26 U.S.C. §6075.** Time for filing estate and gift tax returns

45 (a) Returns relating to large transfers at death

46 *The return required by section 6018 with respect to a decedent shall be filed with the return of the tax imposed
47 by chapter 1 for the decedent's last taxable year or such later date specified in regulations prescribed by the
48 Secretary.*

(b) Gift tax returns

(1) General rule

Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of April following the close of the calendar year.

(2) Extension where taxpayer granted extension for filing income tax return

Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for such calendar year.

A “return” within the I.R.C. is therefore in effect and in truth a compelled “bribe” payment to the government for the “privilege” of conducting a “public office” within the federal government or receiving a federal “payment”. Recall that the U.S. government is defined in [28 U.S.C. §3002](#)(15)(A) as a “federal corporation”. As you will learn later, “income” is defined by the Sixteenth Amendment as “corporate profit”. The IRS fakes most of us out into admitting we are “employees” of this federal corporation on the W-4 form, which says “employee” in the upper left corner. Under [26 U.S.C. §6331](#)(a) and [26 CFR §31.3401\(c \)-1](#), only those who are “public officers”, who are “officers of a corporation” can be “employees”. All such corporate officers (“taxpayers”) are described in the code as being involved in a “trade or business” in [26 U.S.C. §7701](#)(a)(26). Therefore, nearly all “taxpayers” under the I.R.C. are engaged in a “trade or business”, which is a “public office”, within the “United States”, which is the United States federal government. Receipt of a federal payment by a “public officer” is then counted as “corporate profit” under the I.R.C. and we as the recipients are in the custody of corporate profit which must be returned to the federal government. The “tax” on this “corporate profit” under the I.R.C. is effectively a “return” or kickback of a percentage of the privileged payment received from the federal government. Until federal “tax” is withheld and paid, we are acting as a “fiduciary” or “transferee” (see [26 U.S.C. §6901](#)) over federal property, and “in rem” federal jurisdiction exists over the property under Article 4, Section 3, Clause 2 of the Constitution. Therefore, an “income tax” is nothing but a federal employee kickback payment. Those private citizens who refuse to commit perjury on a W-4 form by declaring themselves to be federal “employees” or who refuse to pay this illegal bribe and expose this fraud for what it is are sometimes slandered and fired with no law authorizing such treatment whatsoever.

QUESTION FOR DOUBTERS: If you disagree, please show us a section anywhere in the Internal Revenue Code or Treasury Regulations that defines a “return” as anything OTHER than a kickback payment from federal employees to the federal government. You are not allowed to “presume” otherwise. In the legal field, every statement and belief must be backed up with evidence or it is frivolous.

31 Why did the government implement the income tax as the equivalent of a federal “employee” or “public officer” kickback?
32 Isn’t it easier to just cut the pay of federal “public officer” or “employee” rather than overpay them and ask for the
33 difference back? The answer is that:

34 1. The only types of entities that the government can write laws which impose duties or obligations upon are its own
35 officers and employees while on official duty, and not private persons in the general public. The U.S. Supreme Court
36 has said that the ability to regulate what it calls “private” conduct is “repugnant to the Constitution”:

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

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

45 2. The Constitution prohibits direct taxes under Article 1, Section 2, Clause 3 and Article 1, Section 9, Clause 4 and the
46 first direct income tax Congress tried to impose was declared unconstitutional in *Pollock v. Farmers Loan and Trust*,
47 157 U.S. 429 (1895). Therefore, the only way Congress could lawfully collect an income tax was by imposing it upon
48 excise taxable, voluntary, avoidable activities, which the courts call “franchises” and “public rights”. The excise

1 taxable activity is called a “trade or business” and it is statutorily defined in 26 U.S.C. §7701(a)(26) as “the functions
2 of a public office”.

3 Therefore, the federal government couldn’t impose a lawful or constitutional income tax and never did attempt to tax
4 people in states of the Union using the Internal Revenue Code. Instead, they created a federal “employee” or “public
5 officer” kickback program that only applied in the District of Columbia initially. This first “tax” or kickback program
6 started during the Civil War with the Revenue Act of 1862, and applied only to public officers and excluded federal judges.
7 Since that time, our “weasels in Washington” have abused “words of art”, obfuscation of the “code”, legal trickery, and
8 corruption of the federal judiciary to unlawfully expand the operation of this kickback “scheme” outside the District of
9 Columbia in what amounts to a conspiracy to destroy the separation of powers between the states and federal government.
10 They did this by fooling people in the states of the Union into believing that they the proper subjects for what amounts to a
11 tax exclusively on federal “public offices”, which 4 U.S.C. §72 limits EXCLUSIVELY to the District of Columbia. You
12 may find a complete description of this conspiracy to destroy the separation of powers for financial reasons in the document
13 below:

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

14 Within the Internal Revenue Code, the only “persons” who earn “income” are those who receive federal payments from or
15 on behalf of the government as “public officers” engaged in the “trade or business” excise taxable franchise. This is
16 confirmed by examining [26 CFR §1.1-1\(a\)\(2\)\(ii\)](#), which says that only those who have “income effectively connected with
17 a trade or business” can earn “gross income”:

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

22 (a)(2)(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by
23 the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or
24 business in the United States by a married alien individual who is a nonresident of the United States for all
25 or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as
26 amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business
27 in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of
28 the United States for all or part of the taxable year. See paragraph (b)(2) of section 1.871-8.”
29 [26 CFR §1.1-1(a)(2)(ii)]

30 “trade or business” is then defined in [26 U.S.C. §7701\(a\)\(26\)](#) as “the functions of a public office” in the U.S government.

31 [26 U.S.C. §7701\(a\)\(26\)](#)

32 “The term ‘trade or business’ includes [is limited to] the performance of the functions of a public office.”

33 [26 U.S.C. §7701\(a\)\(31\)](#) also confirms that if we don’t earn any income from within the District of Columbia, which is
34 called the “United States” in the I.R.C., and if that income is not connected to a “trade or business”, then it is foreign to the
35 I.R.C. and outside the jurisdiction of the I.R.S.

36 [TITLE 26 > Subtitle F > CHAPTER 79 > §7701](#)
37 [§7701. Definitions](#)

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

40 (31) Foreign estate or trust
41 (A) Foreign estate

42 The term “foreign estate” means an estate the income of which, from sources without the [federal] United
43 States which is not effectively connected with the conduct of a trade or business within the United States, is
44 not includable in gross income under subtitle A.

1 Therefore, only those who consent to be “taxpayers” and “public officers” on behalf of the government and who receive a
2 federal payments greater than the “exemption amount” indicated in [26 U.S.C. §6012](#) above must make a “return of income”
3 to the government. The only way a person can earn such “income” and “gross income” is to have earnings “effectively
4 connected with a trade or business in the [federal] United States”, which is lawyer-trickery for saying that a person must be
5 engaged in a political office (in the District of Columbia, which is the what “United States” is defined to mean in 26 U.S.C.
6 §7701(a)(9) and (a)(10)).

7 **QUESTION FOR DOUBTERS:** If you think we are wrong in our conclusions relating to a “trade or business” here, then
8 please explain why [26 U.S.C. §6902](#)(a) and [26 U.S.C. §6901](#)(a)(1)(A)(i) places the burden of proof upon the Secretary of
9 the Treasury in Tax Court Proceedings to prove that their opponent is a “transferee”, which is a fiduciary of federal
10 property connected to a “public office”? We assert that the only “taxpayer” who can litigate in Tax Court is one who is
11 engaged in a “trade or business”, which is a public office in the U.S. government.

12 Once we understand that a “return” is in fact a kickback payment of federal earnings or payments to “public officers”, it
13 becomes clear why the IRS and the federal courts identify a 1040 form with “no liability” indicated as not a legitimate
14 “return”. You can verify this yourself by reading an IRS internal memo indicating this below:

15 <http://famguardian.org/TaxFreedom/Evidence/Refunds/1998-053IRSMemoZeroRet.pdf>

16 Below is a section from the IRS’ own Internal Revenue Manual describing what a valid return is. Notice that they describe
17 the requirements applicable to “taxpayers” but not “nontaxpayers”. Remember from the previous section that a “taxpayer”
18 is someone liable and subject to the I.R.C., which we know doesn’t describe most Americans. The only thing we can
19 conclude from this is that there are no requirements for what constitutes a valid return for “nontaxpayers”.

20 *Internal Revenue Manual*
21 [Section 25.6.5.5.1](#) (11-01-2004)
22 Valid Return

23 1. A taxpayer is not considered to have filed a tax return (which begins the period of limitations on assessment)
24 until the taxpayer files a valid tax return. A valid return is described at IRM 25.6.2.4.14. In general, a tax
25 return is considered sufficient for establishing a statute of limitations period if it meets the following criteria:
26 A. It has data sufficient available to calculate a tax liability,
27 B. It purports to be a return,
28 C. It is an honest and reasonable attempt to satisfy the requirements of the tax law, and
29 D. It is signed under penalties of perjury.

30 Note:

31 #While there is no question that an unsigned return is an invalid return; the Service has found it
32 necessary to process unsigned balance due returns since 1970 in order for the Service to handle the
33 volume of unsigned payment returns received annually. This business decision is reflected in P-2-11
34 (Approved 10-02-1970), IRM 1.2.1.3.6.#

35 2. A return filed on the wrong form may be a valid return for the purpose of starting the period of limitations if
36 it provides sufficient date to calculate a tax liability.

37 A. Federal Insurance Contributions Act (FICA) form instead of Railroad Retirement Tax Act (RRTA) form. A
38 FICA return did not start the period on an employer’s RRTA tax liability because the FICA return did not
39 include all the information necessary to compute the RRTA tax. See *Atlantic Land & Improv. Co. v. United*
40 *States*, 790 F.2d. 853, 860 (11th Cir. 1986).

41 B. RRTA form instead of FICA form. It appears that a RRTA return filed for a FICA tax liability might be
42 sufficient to start the period on that liability. See the suggestion in *Atlantic Land & Improv. Co.*, 790 F.2d. 860
43 at footnote 12.

44 [SOURCE: <http://www.irs.gov/irm/part25/ch06s05.html>]

45 Those who earn no “income”, which is a code word within the Subtitle A of the I.R.C. for:

- 46 1. A federal payment to a Social Security Trustee, who is the benefit recipient. See [26 U.S.C. §861\(a\)\(8\)](#).
47 2. Employment compensation to a federal “employee”, as defined in [26 CFR §31.3401\(c\)-1](#).

1 3. Corporate profit for the federal corporation called the “United States”, as defined in [28 U.S.C. §3002](#)(15)(A).

2 . . .cannot “return” a portion of it. Most people fit in this category and don’t even realize it because they believe the
3 deliberate deception contained in the IRS publications instead of reading the I.R.C. for themselves. Such “persons” would
4 be described simply as “not liable” and would not need to file any forms with the IRS. However, a condition of no liability,
5 at least as far as the IRS is concerned, can only exist when *all* erroneous reports of “income” connected with the “trade or
6 business” franchise coming from private companies or financial institutions have been rebutted. This is accomplished in
7 the case of a W-2 by filing IRS Form W-2C separately or IRS Form 4852 with a tax return or sending in corrected versions
8 of the other types of forms. If these erroneous reports of “income” (federal payments) are never rebutted and if the amount
9 reported exceeds the exemption amount identified in [26 U.S.C. §6012](#), then:

- 10 1. Un-rebutted and erroneous Form W-2, 1042S, 1098, and 1099 information return reports:
11 1.1. Create a false presumption of the receipt of federal payments.
12 1.2. Constitute a statement of liability under penalty of perjury. The IRS Form W-3 identifies itself as a “tax
13 statement” and it is signed under penalty of perjury.
14 1.3. Create a false presumption that the recipient consented to be treated as a federal “employee”, which is what it
15 says in the upper left corner of the Form W-4.
16 1.4. Constitute evidence that the recipient received “income” or “gross income” AND that they consented to have his
17 or her earnings treated as “wages” under [26 CFR §31.3401\(a\)-1](#).
18 1.5. The presence of a federal identifying number on the information returns also constitutes consent to treat an SSN
19 as a TIN. There is no regulation or statute authorizing conversion of an SSN into a TIN. Only the recipient can
20 do that by disclosing a number to the payor or the IRS.
21 1.6. Create a false presumption that the subject of the report filed a W-4 form, which is called a “voluntary
22 withholding agreement”.
23 2. Since the payee of the payment received a copy of these reports and did not rebut it, the government will “presume”
24 that the recipient consented to participate in the federal income tax and therefore has “income effectively connected
25 with a trade or business in the United States”.
26 3. Because consent was present and voluntary, the recipient is a “taxpayer” and is subject to the “code”. Enforcement
27 will then be attempted against the recipient and that recipient will be treated as a federal “employee” during the
28 collection process, which under [26 U.S.C. §6331](#)(a), is an elected or appointed officer of the federal government.

29 If you would like to know how to nullify these erroneous reports to rebut the false presumption of being connected with a
30 “trade or business in the United States”, see:

[Correcting Erroneous Information Returns](#), Form #04.001
<http://sedm.org/Forms/FormIndex.htm>

31 Why does the government want to deceive you into believing that a “return” is a piece of paper instead of a kickback of
32 payments from the federal government? Here are a few answers:

- 33 1. When they prosecute people maliciously and wrongfully for “willful failure to file” under [26 U.S.C. §7203](#), they don’t
34 have to satisfy the burden of proof that your income was “effectively connected to a trade or business”, which would
35 immediately expose their fraud.
36 2. They don’t have to explain to juries that a “trade or business” is actually a “public office” under [26 U.S.C.](#)
37 [§7701\(a\)\(26\)](#).
38 3. They don’t want juries to know that Subtitle A of the I.R.C. describes a “kickback” and not a legitimate, constitutional
39 income tax.

40 Finally, if you would like to know more about this illegal and unethical kickback program, see the article entitled “Federal
41 Employee Kickback Position” starting in section 5.6.11 of the following.

[Great IRS Hoax](#), Form #11.302
<http://sedm.org/Forms/FormIndex.htm>

5 Criteria for a Valid “Return” to be Filed According the Government

2 While Part 5 of the IRM is titled, “collecting process” Part 4 of the IRM is titled, “examining process”. Part 4 of the IRM
3 contains the “Substitute For Return Procedures” at IRM 4.19.17.1.3.1 (11-10-2006). At item 10 of these SFR procedures
4 the statement is made,

5 *“Returns submitted must have the taxpayer’s signature.”*

⁶ At item 2 of these SFR procedures it states,

"Cases selected for SFR procedures should be controlled on IDRS with appropriate activity codes".

8 The activity codes for the various Form 1040 returns appears to only be pertain to those having some connection with the
9 federal government, which virtually all Americans do not. These activity codes may be found in the IRS AMDISA file. A
10 tool which decodes the content of this file can be found below on our website:

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

11 It appears that the filing of an IRS Form 1040 is voluntary since the IRM states it requires the taxpayer's signature. This is
12 also confirmed in the following section of the IRM:

- 1. A signature is required, below the jurat (perjury statement), on most returns.*

Exception:

- a. Faxed copies with the annotation "Process as Original-Faxed Copy."
 - b. ELF prints being processed as an original with a Temporary SSN, even when there is not a copy of Form 8453 attached or they were "PIN" signed.

- 2. Joint returns require the signature of both taxpayers.*

Exception:

When a notation indicates that the spouse is:

- A. Deceased and taxpayer is filing as the surviving spouse
 - B. A POW-MIA
 - C. Handicapped
 - D. Unable to sign the return due to health reasons
 - E. In a combat zone

3. One signature is acceptable on a joint return when a Power of Attorney (POA) is attached and the POA is valid for both taxpayers.

4. If the taxpayer is a minor child and tax return is:

5. Suspend using SSPND 225 to correspond for a missing signature only unless:

- A. "Substitute for Return Prepared by IRS" is notated or "dummy" return.
 - B. "Section 6020(b)" or "prompt assessment" is notated or Form 4810 is attached.
 - C. Return is "amended", "corrected", "revised", "tentative", or "superseding".

1. Note:

You are not required to inspect returns for missing signatures since no Error Code will appear for a missing signature; however, if you are led to the signature area of the return and it is not signed, you should take the appropriate actions.

Exception:

When corresponding for other missing information, you are required to correspond for a missing signature.

1 Further the United States Tax Court stated:

2 *"This is because the return is a consent to assessment of tax in our tax system. See 26 U.S.C. §6201(a)(1) and
3 26 CFR §1.6201-1(a)(1), Income Tax Regs."*
4 *[Millsap v. Commissioner, 91 T.C. 926 (1988)]*

5

6 *"Petitioner, nevertheless, attempts to assert that the withholding of income tax by his employer satisfies his
7 obligation to pay tax, and that in essence, there is no underpayment. A withholding credit, however, is not in
8 payment of petitioner's tax liability until he consents to assessment, or a liability is otherwise determined.
9 The filing of a proper return is treated as a consent to assessment of the tax and would obviate the need for
10 the deficiency procedures under sections 6211 through 6215.² In failing to file a return, petitioner clearly
11 failed to report or admit to his tax liability. Thus, his withholding credits had not and could not be applied by
12 respondent to reduce or satisfy that tax liability, or his deficiency or underpayment."*
13 *[Klunder v. C. I. R., T.C. Memo. 1991-489, 1991 WL 191552 (Tax Court, 1991)]*

14

15 *Because petitioner here filed no return, he is not entitled to any amount with which to offset his total tax
16 liability for purposes of the above calculation. Sec. 6653(c); sec. 301.6211-1(a), Proced. & Admin. Regs;
17 Cirillo v. Commissioner, 314 F.2d. 478, 484 (3d Cir. 1953); Emmons v. Commissioner, *supra* at 348.
18 Petitioner's underpayment is, therefore, the full amount of his 1983 tax liability. Schneiker v. Commissioner,
19 T.C. Memo. 1989-378. The rationale underlying our holding, the case law, and the statute is that a prepayment
20 credit cannot become a payment of petitioner's tax liability until he consents to assessment, or a liability is
21 otherwise determined. In this same view, prepayment credits are not considered for purposes of computing a
22 deficiency for section 6211. The filing of a proper return is treated as a consent to assessment of the tax and
23 would obviate the need for the deficiency procedures under sections 6211 through 6215 before respondent is
24 able to collect the tax.³ In failing to file a return, petitioner clearly failed to admit and consent to his tax
25 liability.*
26 *[Sullivan v. C. I. R., T.C. Memo. 1991-492, 1991 WL 191583 (Tax Court, 1991)]*

27 The United States Tax Court reinforced its decision above in, Cabirac v. CIR, 120 T.C. 163 (2003) and Spurlock v.
28 Commissioner, T.C. Memo. 2003-124 by saying,

29

30 *In Spurlock v. Commissioner, *supra* at 157 n. 3, we stated that "Both parties agree that respondent filed sec.
31 6020(b) returns for the years in issue; however, we do not decide whether those 'returns' meet the requirements
32 of sec. 6020(b)." Since respondent has failed to produce any evidence that a "return" was filed, we hold that the
section 6651(a)(2) additions to tax for failure to pay tax shown on a return is inapplicable.*

33 [. . .]

34

35 *We previously addressed what constitutes a section 6020(b) return in Millsap v. Commissioner, 91 T.C. 926,
36 1988 WL 123581 (1988), and Phillips v. Commissioner, 86 T.C. 433, 1986 WL 22098 (1986). In Phillips v.
37 Commissioner, *supra* at 437-438, we held that a "dummy return", i.e., page 1 of a Form 1040 showing only the
taxpayer's name, address, and Social Security number, was not a section 6020(b) return.*

38

39 *[FN18] In Millsap v. Commissioner, *supra*, the Commissioner prepared a Form 1040 and attached a revenue
40 agent's report which contained sufficient information from which to compute the taxpayer's tax liability. The
41 attached report was subscribed, and we held that the Form 1040 together with the attached revenue agent's
42 report containing information from which the tax could be computed met the requirements for a section 6020(b)
43 return. The same elements we found necessary to constitute a section 6020(b) return in Millsap v.
44 Commissioner, *supra*, and Phillips v. Commissioner, *supra*, are generally required for purposes of a section
45 6020(b) return in the context of section 6651(a)(2) and (g)(2). Namely, the return must be subscribed, it must
46 contain sufficient information from which to compute the taxpayer's tax liability, and the return form and any
47 attachments must purport to be a "return". The mere fact that respondent's files contain information upon which
48 a tax might be determined does not transform his files into a section 6020(b) return. See Cabirac v.
Commissioner, 120 T.C. ----, (2003).*

49 [. . .]

² See discussion in M. Saltzman, IRS Practice and Procedure, par. 10.02, p. 10-8 (2d ed. 1991). Early on, a deficiency was considered properly determined where a taxpayer did not admit to his tax liability - even where the correct amounts were shown on his return. Continental Accounting & Audit Co. v. Commissioner, 2 B.T.A. 761, 763 (1925).

³ See discussion in M. Saltzman, IRS Practice and Procedure, par. 10.02, p. 10-8 (2d ed. 1991). Early on, a deficiency was considered properly determined where a taxpayer did not admit to his tax liability - even where the correct amounts were shown on his return. Continental Accounting & Audit Co. v. Commissioner, 2 B.T.A. 761, 763 (1925).

1 The documents attached to respondent's response to petitioner's motion for partial summary judgment for 1996
2 and 1997 consist of:

- 3 (1) Half-page printouts of numerous codes and information which the Court is unable to translate;
4 (2) portions of pages 1 of Forms 1040, each of which contains petitioner's name, address, Social Security
5 number, and filing status;
6 (3) computer-generated Forms 5344(CG), Examination Closing Record, each of which contains numerous
7 codes and listings including petitioner's tax liability, penalty, and interest adjustments, credit and tax
8 computation adjustments;
9 (4) manually completed Forms 5344 signed by a tax examiner containing codes and information which the
10 Court is also unable to translate;
11 (5) a Form 4549-CG, Income Tax Examination Changes; and
12 (6) a Letter 915(DO)(CG) (the "30-day letter")

13 [*FN19*] for petitioner's 1995, 1996, and 1997 tax years. Only the Form 5344 document and the 30-day letter
14 were signed.

15 *FN19*. Letter 915(DO)(CG) provides notice to the taxpayer of proposed adjustments to his or her tax liability.
16 The letter is commonly referred to as a "30-day letter", because the taxpayer has 30 days to agree or disagree
17 with the proposed adjustments.

18 [*FN20*] Respondent's revenue agent, Chris English, signed the 30-day letter. The dates which appear on the
19 numerous documents that respondent alleged to be section 6020(b) returns do not match; indeed, the date
20 entries span several years. The half-page printouts are dated November 22, 2000. Those printouts contain the
21 notation "Received-Date: 10071999". Each of the Forms 1040 is dated September 23, 1999. The computer-
22 generated Forms 5344(CG) contain no date.
23 *[Spurlock v. Commissioner, T.C. Memo. 2003-124]*

24 In Cabirac v. Commissioner, supra the Tax Court stated,

25 "The manually completed Forms 5344 are dated May 31, 2001. The Form 4549-CG contains income tax
26 examination changes for 1995, 1996, and 1997. Page 1 of that form contains no date. Page 2 of that form is
27 dated October 18, 1999. The pages attached to that form, which contain computations relating to the income
28 tax examination changes, are also dated October 18, 1999. The 30-day letter is dated October 18, 1999. We
29 cannot agree that this conglomeration of documents, which appears to be respondent's administrative file,
30 would satisfy the requirements of section 6020(b) even if it were in evidence."

31 Office of Chief Counsel, Notice – CC 2007-005, dated February 4, 2007 states,

32 "It is essential that section 6020(b) returns be placed in evidence if the Tax Court is to find that the Service has
33 met its burden of production under section 7491(c) and sustain the Service's addition to tax determination. In
34 cases brought by nonfilers, the Tax Court will deny the section 6651(a)(2) addition to tax if a valid section
35 6020(b) return is not entered into the record. See, *Wheeler v. Commissioner*, 127 T.C. 14 (2006); *Guthrie v.*
36 *Commissioner, T.C. Memo. 2006-81*; and *Holmes v. Commissioner, T.C. Memo. 2006-80*. This Notice updates
37 and modifies CC-2004-009 (Jan. 22, 2004), which updated and modified CC-2003-019 (June 12, 2003)."
38 *[SOURCE: SEDM Exhibit #05.037, <http://sedm.org/Exhibits/ExhibitIndex.htm>]*

39 IRM 35.2.2.11 (08-11-2004)

40 Internal Revenue Manual
41 Section 35.2.2.11 (08-11-2004)
42 Answers in Failure to Pay (Section 6651(a)(2) Cases Where Substitute for Return Filed under Section 6020(b))

43 Section 6020(b)(1) authorizes the Secretary to make a return upon either a taxpayer's failure to file a return or
44 upon a taxpayer's filing of a fraudulent return. In two cases decided in 2003, the Tax Court clarified what
45 constitutes a return under section 6020(b) for purposes of the addition to tax under section 6651(a)(2). See
46 *Cabirac v. Commissioner*, 120 T.C. 163 (2003), and *Spurlock v. Commissioner, T.C. Memo. 2003-124*. In
47 *Spurlock*, the Tax Court held that a return for section 6020(b) purposes must be "subscribed, it must contain
48 sufficient information from which to compute the taxpayer's tax liability, and the return form and any
49 attachments must purport to be a 'return'." *Spurlock*, slip. op. at 27. In *Cabirac*, the documents the Service
50 proffered as constituting a section 6020(b) return were (a) dummy Forms 1040 that identified the taxpayer, but
51 which were not signed and did not show any tax due, (b) a subsequently prepared 30-day letter, and (c) a
52 revenue agent's report attached to the 30-day letter explaining how the Service computed the taxpayer's
53 liability.

54 Applying the analysis later explained in *Spurlock*, the Tax Court held that these documents did not constitute a
55 section 6020(b) return. Critical to the Tax Court's analysis was that the Service never treated the documents,

1 which the Service created at various times, as one group purporting to be a return. See Millsap v.
2 Commissioner, 91 T.C. 926 (1988), acq. in result in part, 1991-2 C.B. 1, describing a valid section 6020(b)
3 return at issue therein.

4 Finally, in Steines v. C.I.R., 1991-588 (1991), the U.S. Tax Court summarized the U.S. Supreme Court view of what
5 constitutes a valid tax return:

6 The Supreme Court on a number of occasions has considered the essential elements of a valid tax return,
7 usually for purposes of the statute of limitations. Badaracco v. Commissioner, 464 U.S. 386 (1984);
8 Commissioner v. Lane-Wells Co., 321 U.S. 219 (1944); Zellerbach Paper Co. v. Helvering, 293 U.S. 172
9 (1934); Lucas v. Pilliod Lumber Co., 281 U.S. 245 (1930); Florsheim Bros. Drygoods Co. v. United States, 280
10 U.S. 453 (1930). This Court has distilled the essence of the Supreme Court's test and applied it to determine
11 whether or not a particular document constitutes a tax return for purposes of section 6651(a)(1). Beard v.
12 Commissioner, 82 T.C. 766, 777 (1984), affd. 793 F.2d. 139 (6th Cir. 1986). Those essential elements, as set
13 out in Beard, are as follows:

14 First, there must be sufficient data to calculate tax liability; second, the document must purport to be a return;
15 third, there must be an honest and reasonable attempt to satisfy the requirements of the tax law; and fourth, the
16 taxpayer must execute the return under penalties of perjury. (82 T.C. at 777).
17 [Steines v. C. I. R., T.C. Memo. 1991-588, 1991 WL 251520, Tax Court, 1991]

18 There are three rules required to be met prior to there being a valid 26 U.S.C. §6020(b) return based on IRM 35.2.2.11
19 above:

- 20 1. It must be “subscribed”, meaning signed under penalty of perjury by the “taxpayer” pursuant to 26 U.S.C. §6065.
21 2. It must contain sufficient information from which to compute the “taxpayer’s” liability. In the Wesley Snipes failure to
22 file tax case completed in January 2008, the IRS frivolous returns expert testified that this meant that the purported
23 return form contained numeric values.
24 3. The return form and any attachments must purport to be a “return”.

25 All IRS employees and all government field attorneys have or should have had full knowledge of what constitutes a
26 fraudulent posting upon the IRS document titled Individual Master File (IMF).

27 1. **NLRB v. SEARS, ROEBUCK & CO.**, 421 U.S. 132 (1975) states,

28 “Exemption 5, properly construed, calls for "disclosure of all 'opinions and interpretations' which embody the
29 agency's effective law and policy, and the withholding of all papers which reflect the agency's group thinking in
30 the process of working out its policy and determining what its law shall be." Davis, *The Information Act: A*
31 *Preliminary Analysis*, 34 U. Chi. L. Rev. 761, 797 (1967); Note, *Freedom of Information Act and the Exemption*
32 *for Intra-Agency Memoranda*, 86 Harv. L. Rev. 1047 (1973).

33 This conclusion is powerfully supported by the other provisions of the Act. The affirmative portion of the Act,
34 expressly requiring indexing of "final opinions," "statements of policy and interpretations which have been
35 adopted by the agency," and "instructions to staff that affect a member of the public," 5 U.S.C. 552 (a) (2),
36 represents a strong congressional aversion to "secret [agency] law,"

37 2. **26 U.S.C. §7804**(a) Appointment and supervision

38 “Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ
39 such number of persons as the Commissioner deems proper for the administration and enforcement of the
40 internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules
41 applicable to such persons.”

42 3. **26 U.S.C. §7804**, Note 1203:

43 Public Law 105-206, title I, Sec. 1203, July 22, 1998, 112 Stat. 720, provides for termination of employment for
44 misconduct. (See Title 26 U.S.C. note 1203).

45 4. **IRM 35.8.1.8.2 (08-11-2004)** Analysis of Transcript of Account

46 The Field attorney should become familiar with the terminology and symbols used by the Service Center to
47 reflect the status of the petitioner's account on the transcript of account. The attorney should check the

1 transcript of account when preparing the settlement stipulation or reviewing the Rule 155 computation for the
2 following items:

3 A. The assessment of original or deficiency tax, penalty, or interest as to each year or period involved in the
4 Tax Court case. The penalty should be segregated as to kind, i.e., fraud, delinquency, negligence, etc. Care
5 should be exercised in transferee cases to determine what part of the assessed interest is transferee liability and
6 what part is transferee interest.

7 B. The abatement, credits and refunds of tax, penalty and interest are properly accounted for.

8 **6 Statutory IRS Assessment Authority**

9 "There is no worse tyranny than to force a man to pay for what he does not want merely because you think it
10 would be good for him."
11 [Robert Heinlein]

12 **6.1 Assessment authority generally**

13 26 U.S.C. §6201(a)(1) describes the assessment authority of the IRS under I.R.C. Subtitle A as shown below:

14 TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter A > § 6201
15 §6201. Assessment authority

16 (a) Authority of Secretary

17 The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes
18 (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or
19 accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the
20 manner provided by law. Such authority shall extend to and include the following:

21 (1) Taxes shown on return

22 The Secretary shall assess all taxes determined by the taxpayer or by the Secretary [per 26 U.S.C. §6020(b)]
23 as to which returns or lists are made under this title.

24 Note that both the Secretary's assessment and the taxpayer's assessment must be made on a "return" per the above. The
25 only two lawful methods of assessment then are the following:

- 26 1. "taxpayer" assesses himself or herself by filing a return
- 27 2. "taxpayer" signs a blank return form and sends it to the Secretary to complete, pursuant to 26 U.S.C. §§6014 and
28 6020(b).

29 Note based on the foregoing that:

- 30 1. The Secretary may not unilaterally perform an assessment without a return signed by the "taxpayer" pursuant to 26
31 U.S.C. §6201(a).
- 32 2. Only taxes shown on a lawfully executed "return" can be owed or assessed by either the Secretary or the "taxpayer".
- 33 3. Both of the two methods for conducting a lawful assessment mentioned in 26 U.S.C. §6201(a) require the consent and
34 signature of the "taxpayer".
- 35 4. No lawful method is provided to "propose" an assessment.

36 It is quite common for IRS agents to "estimate" the liability of a "taxpayer", especially as an intimidation mechanism
37 during an exam or audit. However, unless the "taxpayer" voluntarily signs the return forms presented by the agent
38 authorizing the assessment or settlement, the assessment is not valid. Without a valid assessment, collection activity cannot
39 be commenced!

40 Furthermore, under 26 CFR §301.6211-1(a), either making no return or a return showing no tax amounts to a "zero return".

41 [Code of Federal Regulations]
42 [Title 26, Volume 18]

1 [Revised as of April 1, 2005]
2 From the U.S. Government Printing Office via GPO Access
3 [CITE: 26CFR301.6211-1]
4 [Page 160-162]

5
6 **TITLE 26--INTERNAL REVENUE**
7 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
8 **PART 301--PROCEDURE AND ADMINISTRATION--Table of Contents**
9 **Assessment**

10
11 Sec. 301.6211-1 Deficiency defined.

12
13 (a) In the case of the income tax imposed by subtitle A of the Code, the estate tax imposed by chapter 11,
14 subtitle B, of the Code, the gift tax imposed by chapter 12, subtitle B, of the Code, and any excise tax imposed
15 by chapter 41, 42, 43, or 44 of the Code, the term "deficiency" means the excess of the tax, (income, estate,
16 gift, or excise tax as the case may be) over the sum of the amount shown as such tax by the taxpayer upon his
17 return and the amounts previously assessed (or collected without assessment) as a deficiency; but such sum
18 shall first be reduced by the amount of rebates made. If no return is made, or if the return (except a return of
19 income tax pursuant to sec. 6014) does not show any tax, for the purpose of the definition `the amount
20 shown as the tax by the taxpayer upon his return' shall be considered as zero. Accordingly, in any such case,
21 if no deficiencies with respect to the tax have been assessed, or collected without assessment, and no rebates
22 with respect to the tax have been made, the deficiency is the amount of the income tax imposed by subtitle A,
23 the estate tax imposed by chapter 11, the gift tax imposed by chapter 12, or any excise tax imposed by
24 chapter 41, 42, 43, or 44. Any amount shown as additional tax on an `amended return,' so-called (other
25 than amounts of additional tax which such return clearly indicates the taxpayer is protesting rather than
26 admitting) filed after the due date of the return, shall be treated as an amount shown by the taxpayer `upon
27 his return' for purposes of computing the amount of a deficiency.

28
29 (b) For purposes of the definition, the income tax imposed by subtitle A and the income tax shown on the
30 return shall both be determined without regard to the credit provided in section 31 for income tax withheld at
31 the source and without regard to so much of the credit provided in section 32 for income taxes withheld at the
32 source as exceeds 2 percent of the interest on tax-free covenant bonds described in section 1451. Payments on
33 account of estimated income tax like other payments of tax by the taxpayer, shall likewise be disregarded in the
34 determination of a deficiency. Any credit resulting from the collection of amounts assessed under section 6851
or 6852 as the result of a termination assessment shall not be taken into account in determining a deficiency.

35
36 (c) The computation by the Internal Revenue Service, pursuant to section 6014, of the income tax imposed
37 by subtitle A shall be considered as having been made by the taxpayer and the tax so computed shall be
considered as the tax shown by the taxpayer upon his return.

38 Any amount imputed by the IRS to be owed above the amount on the "return" is referred to as a "deficiency" under the
39 above regulation. Problems with the above regulation abound, however:

- 40 1. 26 CFR §301.6211-1 is based on the repealed 1939 Internal Revenue Code that is no longer in effect. See for yourself:
Revenue Act of 1939, 53 Stat. 1, Section 4, Exhibit #05.027
<http://sedm.org/Exhibits/ExhibitIndex.htm>
- 41 2. If you look at the bottom of the above regulation, it cites NO statutory authority and therefore is NOT a legislative
42 regulation and cannot be enforced by the courts. To confirm this conclusion, this regulation also does NOT appear in
43 the Parallel Table of Authorities cross-referencing regulations to statutes. See:
Parallel Table of Authorities
http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

44 If you argue with the revenue officer over their authority to assess you, they like to point to regulation 26 CFR §301.6201-
45 1, which is an explanatory but not implementing regulation for 26 U.S.C. §6201. They will try to say that this authorizes
46 them to make an assessment, but this is simply false! This regulation simply reiterates what was found in 26 U.S.C. §6201
47 and exists for informational purposes only:

48 [Code of Federal Regulations]
49 [Title 26, Volume 17]
50 [Revised as of April 1, 2001]
51 From the U.S. Government Printing Office via GPO Access
52 [CITE: 26CFR301.6201-1]
53 Sec. 301.6201-1 Assessment authority.

54 (a) IN GENERAL.

1 The district director is authorized and required to make all inquiries necessary to the determination and
2 assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law. The
3 district director is further authorized and required, and the director of the regional service center is authorized,
4 to make the determinations and the assessments of such taxes. However, certain inquiries and determinations
5 are, by direction of the Commissioner, made by other officials, such as assistant regional commissioners. The
6 term "taxes" includes interest, additional amounts, additions to the taxes, and assessable penalties. The
7 authority of the district director and the director of the regional service center to make assessments includes the
8 following:

9 (1) TAXES SHOWN ON RETURN. The district director or the director of the regional service center shall
10 assess all taxes determined by the taxpayer or by the district director or the director of the regional service
11 center and disclosed on a return or list.

12 (2) UNPAID TAXES PAYABLE BY STAMP.

13 (i) If without the use of the proper stamp:

14 (a) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for
15 sale or use by the manufacturer thereof, or

16 (b) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs; The
17 district director, upon such information as he can obtain, must estimate the amount of the tax which
18 has not been paid and the district director or the director of the regional service center must make
19 assessment therefor upon the person the district director determines to be liable for the tax.
20 However, the district director or the director of the regional service center may not assess any tax
21 which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner
22 provided by law or regulations.

23 (ii) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is
24 not paid upon presentment, then the district director or the director of the regional service center shall
25 assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the
26 check or money order was received by the district director.

27 ...

28 The first thing that we notice about paragraph (a) above is that it applies to taxed imposed by the Internal Revenue Code of
29 1954 or prior. The current version of that code is the 1986 code. Therefore, the above does not refer to the current version
30 of the Internal Revenue Code. Second, it is also very important to realize that the above regulation is NOT an
31 implementing regulation that applies the above provisions to a specific tax within Subtitles A and C of the Internal Revenue
32 Code! It is simply an explanatory regulation. If the IRS had authority to assess Subtitle A personal income taxes under 26
33 U.S.C. §6201, then there would be an implementing regulation number 26 CFR § 1.6201, which there is not. A statute
34 cannot be applied to a particular tax until the Secretary of the Treasury writes an implementing regulation, and 26 CFR
35 §301.6201-1 does not implement or enforce Subtitle A income taxes imposed in 26 U.S.C. §1 and described in 26 CFR Part

36 1.

37 The section above clearly also shows that the only assessments the district director make relate to:

- 38 1. Taxes shown on a voluntarily submitted tax return prepared and signed by the "taxpayer" under 26 CFR §301.6201-
39 1(a)(1)
40 2. Unpaid collected by stamp under 26 CFR §301.6201-1(a)(2)

41 Notice that this regulation does NOT give the revenue officer authority to estimate tax nor sign a return or list on behalf of a
42 "taxpayer", or it would have said so. I.R.C. Subtitles A and C income taxes must instead appear on a tax return, and the
43 Forms 1040, 2555, or 1040NR are the only things that qualify as legitimate returns upon which to base an assessment of
44 Subtitle A and C personal income taxes. 26 CFR §301.6201-1(a)(1) says the taxes assessed by the district director MUST
45 be "disclosed on a return or list". Even the title says that: "TAXES SHOWN ON RETURN". If the agent has no
46 Delegation Order or authority delegated by the "taxpayer" to prepare such a return pursuant to 26 U.S.C. §6014(a), then he
47 is acting outside his lawful delegated authority and can be prosecuted for violation of 26 U.S.C. §7214!

1 Note also that the “district directors” mentioned in 26 CFR §301.6201-1(a) don’t even exist anymore! All Internal Revenue
2 Districts except the only one remaining in the District of Columbia were eliminated by the IRS Restructuring and Reform
3 Act of 1998, which you can read at:

IRS Restructuring and Reform Act of 1998
<http://famguardian.org/Publications/IRSRRA98/IRSRRA98.htm>

4 The abolition of all the internal revenue districts is confirmed by the content of Treasury Order 150-02:

SEDM Exhibit #04.014
<http://sedm.org/Exhibits/ExhibitIndex.htm>

5 We also proved earlier that there are no regulations implementing [26 U.S.C. §6201](#) and published as required in the Federal
6 Register against the IRC Section 1 income tax. Therefore these statutes cannot be applied against Subtitle A income taxes
7 except in the case of groups specifically exempted from the requirement for implementing regulations listed below:

- 8 1. A military or foreign affairs function of the United States. [5 U.S.C. §553](#)(a)(1).
9 2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)
10 [U.S.C. §553](#)(a)(2).
11 3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505](#)(a)(1).

12 If there were implementing regulations for I.R.C. Subtitle A income taxes, then the regulation number would have to be 26
13 CFR § 1.6201, and there is no such regulation:

14 "...the Act's civil and criminal penalties attach only upon violation of the regulation promulgated by the
15 Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone..The
16 Government urges that since only those who violate these regulates (not the Code) may incur civil or criminal
17 penalties, it is the actual regulation issued by the Secretary of the Treasury and not the broad authorizing
18 language of the statute, which is to be tested against the standards of the 4th Amendment."
19 [Calif. Bankers Assoc. v. Shultz, [416 U.S. 21](#), 44, 39 L.Ed.2d. 812, 94 S.Ct. 1494]

20 With these kinds of shenanigans going on, we need to ask ourselves:

21 "If the income tax isn't voluntary, then why don't they just assess us without our permission and send us a bill
22 like they do with property taxes? Why do they need us to snitch on ourselves and send in a 'confession'
23 called a tax return if it's a mandatory 'tax'?"

24 The answer, once again, is that it is and always has been voluntary for “nontaxpayers”, which is why the IRS has no
25 authority to assess you or reassess you if you haven’t FIRST assessed yourself. If all you ever put on your tax return is a
26 zero and rebut the false information returns filed against you that connect you to the “trade or business” franchise, then you
27 can have no “income” or “gross income” subject to tax and no liability and the Declaratory Judgments Act, 28 U.S.C.
28 §2201(a) prohibits even judges from declaring otherwise. The IRS will try to scare you by sending a bogus Notice and
29 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
30 law so they are acting outside their authority in doing so. This is confirmed by the absence of a reference at the bottom of
31 the regulation pointing to an authorizing statute, which means the regulation is NOT a legislative regulation. Don’t let the
32 IRS scare you with a trick Notice and Demand for tax following an examination or with a bogus assessment, because they
33 do not have the authority to issue either.

34 **6.2 Adjustments to returns already filed**

35 If a taxpayer fills out his own tax return and sends it in, and the IRS finds an error on it, they can do an examination on the
36 return and send either a refund or a Notice of Deficiency to make up for the difference. This is authorized under 26 U.S.C.
37 §6212(a):

38 [TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter B > § 6212](#)
39 [§ 6212. Notice of deficiency](#)

40 (a) In general

1 If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter
2 41, 42, 43, or 44 he is authorized to send notice of such deficiency to the taxpayer by certified mail or
3 registered mail. Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local
4 office of the taxpayer advocate and the location and phone number of the appropriate office.

5 Important notes about the above:

- 6 1. The Notice of Deficiency process indicated above can only relate to "taxpayers". "Nontaxpayers" are not mentioned.
7 2. A person must file a valid "return" and already be a "taxpayer" before a deficiency can be assessed or the taxpayer's
8 original assessment can be adjusted.
9 3. Only a nonzero amount owing on a valid return can make a person a "taxpayer" with a liability and thereby trigger the
10 authority to initiate the Notice of Deficiency process.

11 In short, a person must CONSENT to an assessment before they can be reassessed or be the target of a Notice of
12 Deficiency. This was pointed out by the United States Tax Court, when it said on this subject:

13 ". . .the return is a consent to assessment of tax in our tax system. See 26 U.S.C. §6201(a)(1) and 26 CFR
14 §1.6201-1(a)(1), Income Tax Regs."
15 [Millsap v. Commissioner, 91 T.C. 926 (1988)]

16 The only thing the Tax Court can lawfully do is "redetermine" an existing liability of a "taxpayer". It has no jurisdiction
17 over "nontaxpayers". Anyone who knows they are a "nontaxpayer" is precluded from petitioning Tax Court by Tax Court
18 Rule 13(a)(1):

19 Section 6212(a) states in part: "If the Secretary determines that there is a deficiency in respect of any tax
20 imposed ... he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered
21 mail." Section 6213(a) provides in part: "Within 90 days ... after the notice of deficiency authorized in section
22 6212 is mailed ... taxpayer may file a petition with the Tax Court for a redetermination of the deficiency." The
23 Tax Court has jurisdiction only when the Commissioner issues a valid deficiency notice, and the taxpayer files a
24 timely petition for redetermination. "A valid petition is the basis of the Tax Court's jurisdiction. To be valid, a
25 petition must be filed from a valid statutory notice." Stamm International Corp. v. Commissioner, 84 T.C. 248,
26 252 (1985). See Midland Mortgage Co. v. Commissioner, 73 T.C. 902, 907 (1980).
27 [Scar v. C.I.R., 814 F.2d. 1363 (9th Cir. 1987). (Emphasis added.)]

28

6.3 Delegated returns

29 26 U.S.C. §6020 says the following about returns prepared by the Secretary of the Treasury:

30 Subtitle F - Procedure and Administration
31 CHAPTER 61 - INFORMATION AND RETURNS
32 Subchapter A - Returns and Records
33 PART II - TAX RETURNS OR STATEMENTS
34 Subpart D - Miscellaneous Provisions
35 §6020 Returns prepared for or executed by Secretary

36 (a) Preparation of return by Secretary

37 If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but
38 shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the
39 Secretary may prepare such return, which, being-signed by such person, may be received by the Secretary as
40 the return of such person.

41 The assessment indicated above is what we call a "delegated return", in which the "taxpayer" signs the return and delegates
42 the authority to the secretary to actually prepare it. 26 U.S.C. §6014 is the authority for executing delegated returns, which
43 says:

44 TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART II > Subpart B > §6014. Income tax return
45 §6014. Income tax return—tax not computed by taxpayer

46 (a) Election by taxpayer

1 An individual who does not itemize his deductions and who is not described in section [6012\(a\)\(1\)\(C\)\(i\)](#), whose
2 gross income is less than \$10,000 and includes no income other than remuneration for services performed by
3 him as an employee, dividends or interest, and whose gross income other than wages, as defined in section
4 [3401 \(a\)](#), does not exceed \$100, shall at his election not be required to show on the return the tax imposed by
5 section [1](#). Such election shall be made by using the form prescribed for purposes of this section. In such case the
6 tax shall be computed by the Secretary who shall mail to the taxpayer a notice stating the amount determined as
7 payable.

8 When a “delegated return” is executed by the Secretary pursuant to [26 U.S.C. §6020\(a\)](#) and [26 U.S.C. §6014](#), it is executed
9 using IRS Form 1040A. This is reflected in the Individual Master File under the Transaction Code 150, whereby the
10 Document Locator Number contains a Document Code of 10.

11 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 and 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 and 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.

21 7 **Penalties associated with IRS Assessments**

22 Only “persons” as defined in 26 U.S.C. §6671(b) can be the subject of IRS penalties. People domiciled in states of the
23 Union who are not serving in public offices within the United States government are not “persons”:

24 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671](#)
25 [§ 6671. Rules for application of assessable penalties](#)

26 (b) Person defined

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

30 The “person” described in 26 U.S.C. §6671(b) is a “public officer” within the United States government engaged in a “trade
31 or business”. The term “trade or business” is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”, which
32 office is in the U.S. government. Nowhere in the I.R.C is the definition of the term “trade or business” expanded to include
33 anything other than “the functions of a public office” and therefore, it cannot include anything else:

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

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

1 *"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term.* Colautti v.
2 Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed
3 in other legislation, has no pejorative connotation. As judges, it is our duty to [481 U.S. 485] construe
4 legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who
5 has not even read it."
6 [Meese v. Keene, 481 U.S. 465, 484 (1987)]

- 7 There is no liability statute which indicates a duty to file a return of income and there doesn't need to be in the case of
8 persons participating in the "public office" or "trade or business" franchise, because the liability originates from the
9 following:

10 "I: DUTY TO ACCOUNT FOR PUBLIC FUNDS

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

16 [Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890;

17 SOURCE: <http://books.google.com/books?id=g-19AAAAIAAJ&printsec=titlepage>

- 18 The only way the person can earn "gross income" is to have an information return filed against him or her that connects
19 him to the "trade or business" franchise pursuant to 26 U.S.C. §6041(a). It is especially important for nonfilers who have
20 been the subject of usually false information returns to rebut these information returns so that the above duty to file may not
21 be asserted by the government. Procedures for doing this are indicated below:

Correcting Erroneous Information Returns, Form #04.001
<http://sedm.org/Forms/FormIndex.htm>

- 22 All IRS penalties are identified as "additions to tax". It is illegal to assess a penalty if there is no underlying tax liability.
23 The IRC at 26 U.S.C. §6665 states, in part;

24 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter A > PART III > § 6665](#)
25 [§ 6665. Applicable rules](#)

26 (a) Additions treated as tax

27 Except as otherwise provided in this title—

28 *the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice*
29 *and demand and shall be assessed, collected, and paid in the same manner as taxes; and"* (emphasis added).

- 30 Now we can see that these Additions to Tax imposed by 26 U.S.C. §6651 are penalties required to be added to and assessed
31 in the same manner as taxes. Taxes are assessed under Title 26 U.S.C. §6201 as those found posted upon the return of the
32 taxpayer or the Secretary's filed return. The key with the assessment is the return. **If there is no return then there is no**
33 **assessment, and therefore nothing to ADD a penalty to.** Why is this? Because:

- 34 1. The Internal Revenue Code, Subtitle A is what the courts call a franchise and a "public right". See:

The "Trade or Business" Scam, Form #05.001
<http://sedm.org/Forms/FormIndex.htm>

- 35 2. Only franchisees called "taxpayers" can be the subject of penalties under the terms of the franchise agreement codified
36 in I.R.C. Subtitle A.

37 *"Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are without their scope. No*
38 *procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies*
39 *in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the*
40 *subject nor of the object of federal revenue laws."*

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

- 42 3. You can't be a "taxpayer" for any given year without "gross income" connected with a "trade or business" beyond the
43 exemption amount and without occupying a "public office" within the United States government in the District of

1 Columbia and not elsewhere as required by 4 U.S.C. §72. Without satisfying these criteria, one is a “nontaxpayer” not
2 subject to the franchise agreement nor any of the penalties.
3 4. Penalties against a person who is NOT a “taxpayer” and who is domiciled on land protected by the Constitution are
4 “Bills of Attainder” that are prohibited by Article 1, Section 10 of the Constitution. A Bill of Attainder is a penalty
5 administered by anything other than a court of law.

6 ***Bill of attainder.** Legislative acts, no matter what their form, that apply either to named individuals or to easily
7 ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial.
8 United States v. Brown, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett,
9 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. An act is a "bill of attainder" when the punishment is
10 death and a "bill of pains and penalties" when the punishment is less severe; both kinds of punishment fall
11 within the scope of the constitutional prohibition. U.S.Const. Art. I, Sect 9, Cl. 3 (as to Congress);' Art. I, Sec,
12 10 (as to state legislatures).
13 [Black's Law Dictionary, Sixth Edition, page 165]*

14 The most frequent penalty assessed against persons who do not file tax returns is that found in 26 U.S.C. §6651(a)(1). That
15 penalty :

16 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter A > PART I > § 6651](#)
17 [§ 6651. Failure to file tax return or to pay tax](#)

18 (a) *Addition to the tax*

19 In case of failure—

20 *(1) to file any return required under authority of subchapter A of chapter 61 (other than part III thereof),*
21 subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52
22 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53
23 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard
24 to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to
25 willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the
26 amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional
27 month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

28 *(2) to pay the amount shown on tax on any return specified in paragraph (1) on or before the date prescribed
29 for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that
30 such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown
31 as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an
32 additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not
33 exceeding 25 percent in the aggregate; or*

34 *(3) to pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is
35 not so shown (including an assessment made pursuant to section 6213 (b)) within 21 calendar days from the
36 date of notice and demand therefor (10 business days if the amount for which such notice and demand is made
37 equals or exceeds \$100,000), unless it is shown that such failure is due to reasonable cause and not due to
38 willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the
39 amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional
40 month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.*

41 *In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for
42 filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such
43 failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall
44 not be less than the lesser of \$100 or 100 percent of the amount required to be shown as tax on such return.*

45 (b) *Penalty imposed on net amount due*

46 *For purposes of—*

47 *(1) subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of
48 any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of
49 any credit against the tax which may be claimed on the return,*

50 *(2) subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for
51 any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such
52 month and by the amount of any credit against the tax which may be claimed on the return, and*

(3) subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

⁴ 26 U.S.C. §6012 entitled “Persons required to make returns of income” is the section that would pertain to 26 U.S.C.
⁵ §6651(a)(1) above. Important facts about penalties:

- 6 1. The penalties indicated under 26 U.S.C. §6651(a)(1) do not have any implementing regulations published in the
7 Federal Register that would apply them to the income tax in I.R.C. Section 1. If they did exist, they would be found at
8 26 CFR §1.6651-1(a).
9 2. Without implementing regulations published in the Federal Register, penalties may not be instituted against persons
10 domiciled in states of the Union pursuant to 26 CFR §601.702(a)(2)(ii) and 5 U.S.C. §552(a).

5 U.S.C. §552(a): Public information; agency rules, opinions, orders, records, and proceedings

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

26 CFR §601.702 Publication and public inspection

(a)(2)(ii) Effect of failure to publish.

Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

- 26 3. The only groups specifically exempted from the requirement for implementing regulations are the following, and the
27 average American does not fall into these groups:

28 3.1. A military or foreign affairs function of the United States. [5 U.S.C. §553](#)(a)(1) .

29 3.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)
30 [U.S.C. §553](#)(a)(2) .

31 3.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505](#)(a)(1).

If you would like more proof you can use at an IRS audit or in litigation to prove the IRS has no enforcement authority against anyone other than the three groups specifically exempted from the requirement for implementing regulations indicated above, all of whom are part of the U.S. government, then please see the following on our website:

IRS Due Process Meeting Handout, Form #03.008

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

35 8 Substitute For Returns (SFR's)

8.1 If You Don't File a 1040, the IRS Can't File a Substitute For Return (SFR) For You Under 26 U.S.C. §6020 (b)

38 A “Substitute for Return (SFR)” is a tax return prepared under the authority of law by the Internal Revenue Service on
39 behalf of an Americans who refuse to file returns and which creates a tax liability. [Section 5.1.11.6.8 of the Internal](#)
40 [Revenue Manual](#) describes the authority of the Internal Revenue Service to execute Substitute for Returns. Below is the
41 content of that section:

5.1.11.6.8 (05-27-1999)

IRC 6020(b) Authority

- 1 1. *The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):*
2 A. *Form 940, Employer's Annual Federal Unemployment Tax Return*
3 B. *Form 941, Employer's Quarterly Federal Tax Return*
4 C. *Form 943, Employer's Annual Tax Return for Agricultural Employees*
5 D. *Form 720, Quarterly Federal Excise Tax Return*
6 E. *Form 2290, Heavy Vehicle Use Tax Return*
7 F. *Form CT-1, Employer's Annual Railroad Retirement Tax Return*
8 G. *Form 1065, U.S. Return of Partnership Income.*
- 9
10 2. *Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue*
11 *officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to*
12 *prepare and execute returns under IRC 6020(b).*

13 From the above, we can see that IRS Forms 1040, 1040A, 1040EZ, 1040NR, 1041, and 1120 do NOT appear, meaning that
14 the Internal Revenue Service has no lawful delegated authority to execute SFR's against Americans under 26 U.S.C.
15 §6020(b) of the Internal Revenue Code for personal income taxes found in Subtitle A of the Internal Revenue Code. This
16 means that if you don't complete and sign and submit an income tax form yourself and thereby assess yourself with a tax
17 liability, no one in the government can do it without your consent or permission. Likewise, they can't AMEND an
18 assessment that you do on yourself either. What they will do is PROPOSE an amendment and give you a time limit to
19 respond, and then assume you agree if you fail to respond, but if you indicate on the original return that they may not
20 amend it, then they are screwed and can't do anything except assume the liability you indicate, which hopefully will be
21 zero! This very situation explains why even the government says our income tax system is based on "voluntary
22 compliance".

23 The We the People Truth in Taxation Hearing held on 27-28February 2002 featured an X IRS agent named Mr. John
24 Turner, who was a former collection officer for ten years, agreeing precisely with the above conclusions by answering a
25 series of questions under oath related to his training as a revenue officer. He showed his actual IRS 6020(b) Training
26 Course Materials as a revenue officer, which clearly showed that he did not have the authority to execute substitute for
27 returns for IRS Forms 1040, 1040EZ, 1040A, 1040NR, 1041, or 1120. You can view the series of questions he answered
28 and the evidence consisting of his revenue officer training materials on our website at:

29

Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns
30 http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section_13.htm

31 In addition to the above significant conclusions, most revenue officers also have Delegation Orders that define which forms
32 they are authorized to sign by law. The IRS simply does not issue delegation orders authorizing any revenue officer to sign
33 or prepare SFRs for taxes associated with Forms 1040, 1040A, 1040EZ, 1040NR, 1041, and 1120. When the IRS does
34 prepare SFR's for an individual, they typically do not sign the form. It is well-established in the federal courts that a tax
35 return that is not signed is not a valid tax return and does not satisfy the requirement to file a return.

36 The section above clearly shows that *the only thing the district director can do is make assessments of taxes collected by*
37 *stamp under 26 CFR §301.6201-1(a)(2) but NOT personal income taxes coming under Subtitles A and C.* Notice that this
38 regulation does NOT give the revenue officer authority to estimate tax nor sign a return or list on behalf of a person, or it
39 would have said so. Subtitles A and C personal income taxes must instead appear on a tax return, and the Form 1040,
40 2555, or 1040NR are the only things that qualify as legitimate returns upon which to base an assessment of Subtitle A and
41 C personal income taxes. 26 CFR 301.6201-1(a)(1) says the taxes assessed by the district director MUST be "disclosed on
42 a return or list". Even the title says that: "TAXES SHOWN ON RETURN". If the agent has no Delegation Order or
43 delegated authority to prepare such a return, then he is acting outside his lawful delegated authority and can be prosecuted
44 for violation of 26 U.S.C. §7214! The General Accounting Office (GAO) published a surprising audit report, report
45 number GAO/GGD-00-60R on the IRS Substitute for Return Program. This report confirms that Substitute For Returns are
46 not really returns, but only "proposed assessment" that the target of the assessment need not consent to! The report says,
47 and I quote:

48

*"In its response to this letter, IRS officials indicated that they do not generally prepare actual tax returns.
49 Instead, IRS prepares substitute documents that propose [not MAKE] assessments. Although IRS and
50 legislation refer to this as the substitute for return program, these officials said the document does not look like
51 an actual tax return."*

52 *[Government Accounting Office Report GAO/GGD-00-60R, p. 1, Footnote 1;*

53 *SOURCE: <http://www.gao.gov/docsearch/reptandtest.html>*

1 "[IRS] Customer Service Division official commented on the phrase 'Substitute for Return.' They asked us to
2 emphasize that even though the program is commonly referred to as the SFR program, no actual tax return is
3 prepared."
4 [Government Accounting Office Report GAO/GGD-00-60R, p. 2;
5 SOURCE: <http://www.gao.gov/docsearch/repanetest.html>]

6 You know what that means, folks? If the IRS doesn't prepare an actual return as required above in order to create a valid
7 self-assessment, then they pull it out of their behind and then falsify their IDRS computer system IMF records by putting
8 the system in manual override mode and creating a bogus backdated and fraudulent assessment so they fall within the
9 statutorily allowed Assessment Statute Expiration Date (ASED) found in 26 U.S.C. §6531. You can confirm this if you
10 FOIA your complete unsanitized master file for the years in question. It's financial terrorism and extortion, folks and these
11 criminals should be locked up in jail and have the key thrown away for doing it! Our politicians look the other way
12 because they want your money so bad that they condone extortion to get it. Below is a direct link to the GAO report if you
13 would like to read it for yourself on the website at:

14 <http://famguardian.org/PublishedAuthors/Govt/GAO/GAO-GGD-00-60R-SFR.pdf>

15 The IRS Internal Revenue Manual also admits that even when a Substitute For Return (SFR) is lawfully prepared, it too
16 must be signed by the revenue officer, and it almost NEVER is:

17 1. IRM 5.1.11.6.8.4, Item 3 says the revenue officers must sign, title, and date the assessment or return, and in fact they
18 NEVER do.

19 *5.1.11.6.8.4 (03-01-2007)*
20 *Preparing Returns for Assessment*

21 1. *Process the returns for assessment under the authority of IRC 6020(b) if the taxpayer fails to file by the*
22 *specified date or has not returned the 6020(b) returns signed.*

23 2. *In all cases if payment of the proposed return is not received, follow procedures in Section 11.5.2 of this*
24 *IRM.*

25 3. **Revenue officers must; Sign, Title, Date, and enter the following on the bottom of the return:**

26 A. *The statement — "This return was prepared and signed under the authority of Section 6020(b)*
27 *of the Internal Revenue Code. Apply condition code 4.*"

28 4. *Enter the appropriate TC and closing code on the left margin of the return, (see Exhibit 5.1.11-3 of this*
29 *IRM);*

30 5. *Close the ICS Del Ret module under "Option A, Return Secured" using the appropriate sub-menu option*
31 *(see section 11.7.1 of this IRM);*

32 6. *Complete section III of F5604, attach a copy, and forward the signed, date-stamped, 6020(b) return to*
33 *submission processing as a secured return.*

34 [IRM 5.1.11.6.8.4 (03-01-2007)]

35 2. IRM 4.19.17.1.3.1, Items 7 and 10 say all Substitute For Returns must return submitted with a signature:

36 *4.19.17.1.3.1 (11-10-2006)*
37 *Substitute For Return Procedures*

38 [...]

39 7. *Complete Form 13496 with a live signature or computer facsimile signature when the 30 day letter is sent to*
40 *the taxpayer. See IRM 20.1.2.1.4*

41 [...]

42 10. *Returns submitted must have the taxpayer's signature.*

2 26 CFR §31.6011(a)-7(a) furthermore requires that IRS agents require a power of attorney to do Substitute For Returns:

3 **TITLE 26--INTERNAL REVENUE**
4 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
5 **PART 31_EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE--Table of Contents**
6 **Subpart G_Administrative Provisions of Special Application to Employment Taxes (Selected Provisions of**
7 **Subtitle F, Internal Revenue Code of 1954)**
8 **Sec. 31.6011(a)-7 Execution of returns.**

9 (a) In general.

10 *Each return required under the regulations in this part, together with any prescribed copies or supporting data,
11 shall be filled in and disposed of in accordance with the forms, instructions, and regulations applicable thereto.
12 The return shall be carefully prepared so as fully and accurately to set forth the data required to be furnished
13 therein. Returns which have not been so prepared will not be accepted as meeting the requirements of the
14 regulations in this part. The return may be made by an agent in the name of the person required to make the
15 return if an acceptable power of attorney is filed with the internal revenue office with which such person is
16 required to file his returns and if such return includes all taxes required to be reported by such person on
17 such return for the period covered by the return.*

18 You can find the above regulation at:

26 CFR §31.6011(a)-7(a), Exhibit #05.044
<http://sedm.org/Exhibits/ExhibitIndex.htm>

19 **8.2 Typical “Substitute For Return” Examination Process**

20 Examination of a persons’ Individual Master File (IMF) occurs usually when there is a disparity between the amount of
21 taxes paid and the amount withheld. Examinations usually follow the sequence below. It is documented using the changes
22 you are likely to see within the Individual Master File (IMF):

23 1. A Transaction Code (TC) 424 appears in the IMF, which is then immediately followed by TC 425. The TC 425 causes
24 the original TC 424 to be removed from the IMF. The TC425 means the following:

25 *Reversed TC 424 (Delete TC 424 to hidden NMF developed SFR)*

26 2. A couple weeks later, MF Stat Code 06 posts to the IMF, which means:

27 *IDRS in delinquency status. **NOTE: 02 and 03 Status Code are modified and further explained by Status
28 Indicators following the Status Codes. (See Sec. 11 for a definition of these indicators)*

29 IRM 3.13.36.30.6, Item 4 says the MF Stat Code 06 is an acceptable reason for nonfiling.

30 3. In about a week, TC 420 shows up in the IMF, indicating that an Examination has been performed by the Examination
31 Branch.

32 4. Two weeks later, a TC 150 appears in the IMF that says “SFR” next to the transaction code. This is a dummy return
33 that opens a new tax module for the year in question so that a liability can be assessed against the module. The only
34 transactions that can be used to open a new module are what is called “Satisfying Transactions”. The SFR 150 is NOT
35 a “Satisfying Transaction” according to IRM 3.13.36.30.6, Item #3. This SFR is created using the following
36 procedures:

37 4.1. The Non Master File (NMF) is used to manually create a Substitute For Return (SFR). The Document Locator
38 Number of the SFR 150 contains Document Code 10, indicating IRS Form 1040A. The 1040A, in turn, is an
39 “automatic” return, and this return can be prepared only under the authority of 26 U.S.C. §6014, in which the
40 “taxpayer” gives consent to the IRS to prepare a return on his or her behalf.

41 4.2. The NMF transaction is then imported into the IMF manually. This importation of the SFR transaction usually
42 occurs via one of the following method:

43 4.2.1. Manually initiated merge from NMF to IMF.

44 4.2.2. Retentions Register using TC 370.

1 4.2.3. Posting of TC 595, which updates the FRC (Filing Requirement Code) code to zero. This zero value means
2 not required to file.

3 **WARNING:** If you FOIA for the NMF records that were used to create the fraudulent SFR, IRS Internal Revenue
4 Manual prohibits IRS personnel from disclosing these records.

5 5. The Examination branch compiles a “proposed assessment” of the “taxpayer” with a liability using I.R.C. §6020(b)
6 procedures. All of the following forms are produced during the examination:

7 5.1. Form 886-A: Explanation of Terms

8 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm886-A.pdf>

9 5.2. Form 1040: Substitute For Return (SFR)

10 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm1040SFR-040927.pdf>

11 5.3. Form 3198: Special Handling Notice

12 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm3198.pdf>

13 5.4. Form 4549: Income Tax Examination Changes

14 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm4549.pdf>

15 5.5. Form 4700: Examination Work Papers

16 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm4700Example-040927.pdf>

17 5.6. Form 5344: Examination Closing Record

18 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm5344.pdf>

19 5.7. Form 5546: Examination Return Charge-Out

20 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm5546Example-040927.pdf>

21 5.8. Form 5564: Notice of Deficiency Waiver

22 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm5564Example-040927.pdf>

23 5.9. Form 5600: Statutory Notice Worksheet

24 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm5600Example-040927.pdf>

25 5.10. Form 12616: Correspondence Examination History Sheet

26 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm12616Example-040927.pdf>

27 5.11. Form 13496: IRC Section 6020(b) Certification

28 <http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm13496Example-040927.pdf>

29 6. TC 570 is then posted to the IMF, indicating “Additional liability pending and/or credit hold”. This indicates that the
30 proposed assessment is not an additional liability yet, but simply a proposed liability. What makes it an additional
31 liability is consent of the taxpayer mandated by 26 U.S.C. §6020(a).

32 7. A few days later, IRS LTR 1862 “30-day letter” mandated by 26 CFR §601.105 is mailed to the “taxpayer” containing
33 all the following documents:

34 7.1. IRS Form 4089: Notice of Deficiency-Waiver. This form summarizes all the liabilities for all years affected by
35 the examination and asked you for a signature.

36 7.2. IRS Form 4549: Income Tax Discrepancy Adjustments. The form lists changes for all years affected by the
37 examination.

38 7.3. IRS Form 886-A: Explanation of Items. This contains a printout of several pages explaining the changes in the
39 IRS Form 4549.

40 8. The “taxpayer” has the option to respond or not respond.

41 8.1. The IRS admitted that the examination output and resulting SFR is NOT an “assessment” and creates no liability,
42 but is merely a “proposed assessment” subject to ratification of the taxpayer:

43 *“In its response to this letter, IRS officials indicated that they do not generally prepare actual tax returns.
44 Instead, IRS prepares substitute documents that propose [not MAKE] assessments. Although IRS and
45 legislation refer to this as the substitute for return program, these officials said the document does not look like
46 an actual tax return.”*

47 *[Government Accounting Office Report GAO/GGD-00-60R, p. 1, Footnote 1;
48 SOURCE: <http://www.gao.gov/docsearch/repanetest.html>]*

49 *“[IRS] Customer Service Division official commented on the phrase ‘Substitute for Return.’ They asked us to
50 emphasize that even though the program is commonly referred to as the SFR program, no actual tax return is
51 prepared.”*

52 *[Government Accounting Office Report GAO/GGD-00-60R, p. 2;
53 SOURCE: <http://www.gao.gov/docsearch/repanetest.html>]*

54 8.2. 26 CFR §601.105 mentions three times that the consent of the “taxpayer” is required to ratify the proposal and
55 make it a lawfully collectible assessment.

1 **TITLE 26--INTERNAL REVENUE**
2 **CHAPTER I--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY**
3 **PART 601 STATEMENT OF PROCEDURAL RULES--Table of Contents**
4 Subpart A_General Procedural Rules
5 Sec. 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax
6 liability.

7 (4) Conclusion of examination.

8 **At the conclusion of an office or field examination, the taxpayer is given an opportunity to agree with the findings of the examiner.** If the taxpayer does not agree, the examiner will inform the taxpayer of the appeal rights. **If the taxpayer does agree with the proposed changes, the examiner will invite the taxpayer to execute either Form 870 or another appropriate agreement form.** When the taxpayer agrees with the proposed changes but does not offer to pay any deficiency or additional tax which may be due, the examiner will also invite payment (by check or money order), together with any applicable interest or penalty. If the agreed case involves income, profits, estate, gift, generation-skipping transfer, or Chapter 41, 42, 43, or 44 taxes, the agreement is evidenced by a waiver by the taxpayer of restrictions on assessment and collection of the deficiency, or an acceptance of a proposed overassessment. **If the case involves excise or employment taxes or 100 percent penalty, the agreement is evidenced in the form of a consent to assessment and collection of additional tax or penalty and waiver of right to file claim for abatement, or the acceptance of the proposed overassessment.** Even though the taxpayer signs an acceptance of a proposed overassessment the district director or the director of the regional service center remains free to assess a deficiency. On the other hand, the taxpayer who has given a waiver may still claim a refund of any part of the deficiency assessed against, and paid by, the taxpayer, or any part of the tax originally assessed and paid by the taxpayer. **The taxpayer's acceptance of an agreed overassessment does not prevent the taxpayer from filing a claim and bringing a suit for an additional sum, nor does it preclude the Government from maintaining suit to recover an erroneous refund. As a matter of practice, however, waivers or acceptances ordinarily result in the closing of a case insofar as the Government is concerned.**

[26 CFR §601.105(b)(4);

SOURCE: http://edocket.access.gpo.gov/cfr_2006/aprqtr/26cfr601.105.htm

- 29 8.3. If the “taxpayer” does not respond to the LTR1862 proposed assessment, the TXMODA report places the
30 “taxpayer” in default and he/she is presumed to consent to the proposed assessment.
31 8.4. It is therefore VERY IMPORTANT to respond to the LTR1862 indicating that:
32 8.4.1. You do not consent to the proposed assessment.
33 8.4.2. The “income” listed is WRONG.
34 8.4.3. The information returns upon which the proposed assessment are WRONG and provide them corrected
35 versions.
36 9. If the “taxpayer” either defaults to the LTR1862 or accepts the assessment, a TC 494 is then posted to the IMF and a
37 90-day Notice of Deficiency letter is sent out, which is described starting in the next section.
38 10. After the 90 day period, a TC 300 then is added to the IMF, which is additions to tax, by the examiner. Underneath
39 that record, you will see Disposal Code (DC) value of 8 through 12. These codes are found in IRS Doc. 6209 Chapter
40 12. The DC codes describes your response to the 90-day letter.
41 11. A TC 421 is then posted to the IMF, which indicates closing of the examination.
42 12. 60 days after the finalization of the tax court if you default on tax court, the Notice of Lien will or may be issued.

43 **8.3 Identifying a Substitute For Return in your Individual Master File (IMF)**

44 If your IMF has an SFR on it, you will see the phrase “SFR 150” on line 8 of the Tax Module portion of your IMF as
45 shown below. The SFR has a black box around it and says “SFR 150 05052003”, indicating that an SFR was
46 accomplished on May 5, 2003. This type of annotation is found on both the IMF Specific and IMF Complete printouts that
47 you will get from the IRS:

48 **Figure 8-1: SFR identified on IMF Complete report**

002148

PAGE NO-0018 TAX PERIOD 30 199912

IMF MCC TRANSCRIPT-COMPLETE

EMP NO 79-171-50113

ACCOUNT NO [REDACTED]	12-16-2003
NAME CONT- SAND	CYCLE-200351

FS-1 CRINV-	LIEN- 29210-088-25441-3 CAF-1 FZ> -LR
TDA COPYS-	TDI COPYS-0003683
INT TOLERANCE- MATH INCREASE- HISTORICAL DO-68 BWNC- BWI-	
MF MOD BAL- 0.00	CSED-
ACRUED INTEREST- 0.00 1208200	RSED-04152003
ACCRUED PENALTY- 0.00 2003120	ARDI-0 ASED-00000000
FMS- IA CD-0	
SFR 150 05052003	0.00 200317 29210-088-25441-3 CD- RET RCVD DT-03212003 PREPARE IND-0 PREPARE TIN- SRC-

1

2 If no SFR had been done for the above year, the annotation instead would be as follow:

3 150 05052003

4 Notice the phrase "SFR" is *missing* from the above. The above type of annotation would indicate that an actual tax return
5 was filed for that year and the corresponding date what it was filed, which in this case would be May 5, 2003.

6 **8.4 Identifying the Document Locator Number (DLN) of an Substitute Return in your
7 Individual Master File (IMF)⁴**

8 When the IRS prepares an illegal Substitute For Return (SFR) on you, it is important to be able to determine the Document
9 Locator Number (DLN) of the return so that you can do a Privacy Act request to obtain the SFR and all supporting
10 documentation as evidence of the fraud. This section will tell you how to do that.

11 The ideal source for determining the DLN of the return is an up-to-date transcript of the account. However, you can usually
12 rely on the DLN printed on a computer generated notice if it is no more than two or three weeks old.

13 When analyzing a transcript use the transaction codes, the "X" indicator denoting refile DLNs, and the document code and
14 blocking series to decide where the original return is filed. Transaction Codes 150, 29X, 30X and 421 with 6XX blocking
15 series, are the only codes involving returns. An "X" shown on the transcript to the far right of the DLN indicates that DLN
16 is the refile DLN (or Control DLN) and the original return will ordinarily be found attached to that document. If an account
17 has several DLNs with an "X" indicator, the last one on the transcript will be the refile DLN. If the DLN on a retention
18 register has a "D" indicator then the return has been destroyed.

19 There are some instances where you also need to look at the document code and blocking series of the DLN to determine
20 whether or not the original return is attached. Document Code 47 identifies an Examination adjustment and is used for TC
21 30X. Document Code 54 identifies a data processing adjustment and is used for TC 29X; and Document Code 51 identifies
22 transactions transferred into the Master File (for example, prompt or quick assessments).

⁴ Adapted from *IRS Document 6209*, section 4.14.

- 1 The following chart can serve as a guideline to help determine which refile DLNs will have original returns attached. Note:
 2 If the return cannot be located under a current refile DLN, research a Master File transcript or IDRS for a possible prior
 3 refile DLN. Request the return again using the prior refile DLN.

4 **Table 8-1: Refile DLNs which have returns attached**

<i>Doc. Code</i>	<i>Blocking Series</i>	<i>Original Returns Associated</i>
47	000-999	Original/ELF/SFR
47	100-199	No Return
47	200-299	No Return/BRTVU/RTVUE/MACS print
47	600-699	Original/ELF/SFR
47	760-769	Copy/BRTVU/RTVUE Print
47	780-789	No Return
47	790-799	Copy/BRTVU/RTVUE Print
47	900-999	Copy of Return
51	000-099	Without Original
51	100-159	With Original
51	160-199	With Original (941M or 720M)
51	850-899	With Original
52	ALL	Without Original
54	000-099	With Original
54	100-129	Without Original—BMF
54	130-139	With Original—BMF
54	140-149	Without Original—BMF
54	150-179	Without Original
54	180-198	With Original
54	199	Without Original
54	200-289	Without Original
54	290-299	Without Original—BMF With Original—BMF
54	300-309	With Original
54	310-389	Reserved
54	390-399	Without Original—BMF
54	400-499	Without Original
54	500-519	With Original—IMF Without Original—BMF
54	520-539	With Original—IMF With Original—BMF
54	540-589	With Original—IMF Without Original—BMF
54	590-599	With Original
54	600-619	Without Original—BMF With Original—IMF
54	620-629	With Original—BMF
54	630-639	Without Original—BMF
54	640-649	With Original—IMF
54	650-699	With Original
54	700-779	With Original
54	780-799	Without Original
54	800-909	With Original
54	910-919	Without Original
54	920-929	With Original
54	930-939	Without Original—BMF
54	930-939	Without Original—BMF
54	940-949	Reserved
54	950-979	With Original
54	980-989	Without Original
73	900-999	With Original

- 5
 6 * Disposal Codes 07, 11, 12—appeals transfers

7 **9 Unlawful Assessments Based Upon Substitute For Returns (SFRs)**

- 8 The following subsections will examine the steps for executing SFRs described earlier in section 8.2 and identify specific
 9 techniques employed by the IRS used to manufacture a fraudulent and illegal assessment. These unlawful assessments, in

1 turn, make the IRS agents responsible into perpetrators of a violation of constitutional rights if attempted against those
2 domiciled outside of federal territory and within a state of the Union and not “taxpayers” as defined in 26 U.S.C.
3 §7701(a)(14).

4 **9.1 SFRs are not valid or enforceable assessments**

5 As we have already established, all SFRs are not valid or enforceable assessments, but merely “proposed assessments”
6 according to an IRS communication with the GAO.

7 *“In its response to this letter, IRS officials indicated that they do not generally prepare actual tax returns.
8 Instead, IRS prepares substitute documents that propose [not MAKE] assessments. Although IRS and
9 legislation refer to this as the substitute for return program, these officials said the document does not look like
10 an actual tax return.”*
11 [Government Accounting Office Report GAO/GGD-00-60R, p. 1, Footnote 1;
12 SOURCE: <http://www.gao.gov/docsearch/repanetest.html>]

13 *“[IRS] Customer Service Division official commented on the phrase ‘Substitute for Return.’ They asked us to
14 emphasize that even though the program is commonly referred to as the SFR program, no actual tax return is
15 prepared.”*
16 [Government Accounting Office Report GAO/GGD-00-60R, p. 2;
17 SOURCE: <http://www.gao.gov/docsearch/repanetest.html>]

18 The IRS SFR program regarding the Form 1040 will therefore not result in a valid return being made by the Secretary of
19 the Treasury or his delegate and still requires consent and ratification by the “taxpayer” to transform the “proposed
20 assessment” into a lawful assessment. The GAO has stated in a letter to Senator Daniel P. Moynihan dated February 17,
21 2000, concerning the SFR Program, quoting from Cornelia M. Ashby, the IRS Associate Director of Tax Policy and
22 Administration Issues, that “no actual return is prepared.” (See; GAO/GGD-00-60R; “IRS’ Substitute for Returns”). See:

Government Accounting Office Report GAO/GGD-00-60R; “IRS’ Substitute for Returns”
<http://archive.gao.gov/f0302/163311.pdf>

23 The letter goes on to state that:

24 *“Instead these officials noted that the IRS prepares a document that substitutes for the return and that proposes
25 an assessment, which is posted to the taxpayer’s account and is subject to the collection process.”*

26 What they self-servingly omitted to state here is that this process requires the taxpayer’s consent, which is congressionally
27 mandated in 26 U.S.C. §6020(a). See IRM Part 4.19.17.1.3.1 (11-10-2006) titled, “Substitute for Return Procedures,”
28 where it describes at item 10 the requirement to have the taxpayer’s signature on the return submitted.

29 The United States Tax Court also warned the IRS that this procedure using the Commissioner’s Dummy Return was not in
30 accordance with 26 U.S.C. §6020(b). The U.S. Tax Court first made this statement in the case, **Phillips v CIR**, 86 T.C. 433
31 (1986) and most recently in **Wheeler v CIR**, Docket Nos. 14430-03, 7206-04. Filed May 22, 2006. There are numerous
32 other Tax Court cases making reference to this same issue.

33 The Internal Revenue Manual at Part 35.2.2.11 (08-11-2004) states;

34 *Internal Revenue Manual
35 Section 35.2.2.11 (08-11-2004)
36 Answers in Failure to Pay (Section 6651(a)(2) Cases Where Substitute for Return Filed under Section 6020(b))*

37 *“Section 6020(b)(1) authorizes the Secretary to make a return upon either a taxpayer’s failure to file a return
38 or upon a taxpayer’s filing of a fraudulent return. In two cases decided in 2003, the Tax Court clarified what
39 constitutes a return under section 6020(b) for purposes of the addition to tax under section 6651(a)(2). See
40 Cabirac v. Commissioner, 120 T.C. 163 (2003), and Spurlock v. Commissioner, T.C. Memo. 2003-124. In
41 Spurlock, the Tax Court held that a return for section 6020(b) purposes (1) must be “subscribed (signed); (2) it
42 must contain sufficient information from which to compute the taxpayer’s tax liability; and (3) the return form
43 and any attachments must purport to be a ‘return’. ”Spurlock, slip. op. at 27. In Cabirac, the documents the
44 Service proffered as constituting a section 6020(b) return were (a) dummy Forms 1040 that identified the
45 taxpayer, but which were not signed and did not show any tax due, (b) a subsequently prepared 30-day letter,
46 and (c) a revenue agent’s report attached to the 30-day letter explaining how the Service computed the*

1 taxpayer's liability. Applying the analysis later explained in *Spurlock*, the Tax Court held that these documents
2 did not constitute a section 6020(b) return. Critical to the Tax Court's analysis was that the Service never
3 treated the documents, which the Service created at various times, as one group purporting to be a return. See
4 *Millsap v. Commissioner*, 91 T.C. 926 (1988), acq. in part, 1991-2 C.B. 1, describing a valid section
5 6020(b) return at issue therein."

6 **Office of Chief Counsel, Notice** – CC 2007-005, dated February 4, 2007 states,

7 "It is essential that section 6020(b) returns be placed in evidence if the Tax Court is to find that the Service has
8 met its burden of production under section 7491(c) and sustain the Service's addition to tax determination. In
9 cases brought by non-filers, the Tax Court will deny the section 6651(a)(2) addition to tax if a valid section
10 6020(b) return is not entered into the record. See, *Wheeler v. Commissioner*, 127 T.C. 14 (2006); *Guthrie v.*
11 *Commissioner*, T.C. Memo. 2006-81; and *Holmes v. Commissioner*, T.C. Memo. 2006-80. This Notice updates
12 and modifies CC-2004-009 (Jan. 22, 2004), which updated and modified CC-2003-019 (June 12, 2003)."

13 Now as shown above we have the GAO and Senator Daniel P. Moynihan addressing the SFR Program with a quote from
14 the IRS Associate Director, Tax Policy and Administration Issues, Cornelia M. Ashby, stating that "no actual return is
15 prepared." Then we have the Internal Revenue Manual stating we must have the taxpayer signature on the return causing
16 the SFR process to agree with 26 U.S.C. §6020(a).

17 Further we have the United States Tax Court repeatedly since 1986 thru to 2006 warning the IRS that the Commissioner's
18 Dummy return is not a return in accordance with 26 U.S.C. §6020(b). The IRS Chief Counsel is also stating that a 26
19 U.S.C. §6020(b) return is required if there has been a 26 U.S.C. §6651 addition to tax.

20 From all of the above authorities it appears that a return is required in order to have the taxpayers consent to be assessed.
21 And also that the 26 U.S.C. §6651 addition to tax relies upon the posting of a valid return.

22 The IRC at 26 U.S.C. §6651(a) states, in part;

23 "...the addition to tax under paragraph (1) shall not be less than the lesser of \$100 or 100 percent of the
24 amount required to be shown as tax on such return."

25 The penalty described above is shown on the IRS, Transcript of Account, [Individual Master File, (IMF)] as an Additions to
26 Tax posted with a transaction code 300. From the definition of this TC 300 it indicates that the Additions to Tax are clearly
27 additions to taxes shown posted upon the return. These additions to tax are treated as a tax and further defined in 26 U.S.C.
28 §6665.

29 The IRC at 26 U.S.C. §6201, Assessment authority, states, in part;

30 TITLE 26 > Subtitle F > CHAPTER 63 > Subchapter A > § 6201
31 §6201. Assessment authority

32 (a) Authority of Secretary

33 The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes
34 (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or
35 accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the
36 manner provided by law. Such authority shall extend to and include the following:

37 (I) Taxes shown on return

38 The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists
39 are made under this title.

40 This discussion can continue showing the wording of the law to include a return that is required to be within the Transcript
41 of Account prior to the posting of any additions to tax. And further that an IRS Form 1040 return can only be subscribed
42 by the taxpayer thereby giving his consent to the assessment of tax upon the return. Nothing else is acceptable under the
43 Internal Revenue Code.

44 The IRC at 26 U.S.C. §7804. Other personnel, states, in part;

3 (a) *Appointment and supervision*

4 Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ
5 such number of persons as the Commissioner deems proper for the administration and enforcement of the
6 internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules
7 applicable to such persons.

8 At this point we can see that various authorities including the United States Congress, the United States Tax Court, the
9 Government Accounting Office and the IRS Chief Counsel each have stated and shown that a return must be in place prior
10 to the posting of any “Additions to Tax”. The Internal Revenue Service has repeatedly done things their way since they
11 were first warned by the United States Tax Court in 1986 causing various violations of law.

12 The IMF of those subjected to unlawful Substitute For Returns typically shows a posting of an “SFR 150” which identifies
13 a Commissioner’s Dummy return. This posting contains an invalid, unsubscribed return that does not qualify as a satisfying
14 transaction to open an IMF account. This invalid, unsubscribed return represents Identity Theft and Computer Fraud
15 because the IMF account can only be created by a Taxpayer subscribed and executed return. The United States Tax Court
16 stated in [Millsap v CIR](#) that the signing of the return was the taxpayers consent to be assessed. An assessment
17 requires the taxpayer’s consent therefore the Secretary is barred from signing a Form 1040 return. The SFR procedures
18 found within the Internal Revenue Manual, IRM requires the taxpayer’s signature.

19 All government tax attorneys are or should be fully aware of the requirement for a return as stated in the IRS Chief Counsel
20 Notice CC 2007-005 dated February 4, 2007. The IRM also states that government field attorneys should have an
21 understanding of the symbols and codes used by the Service Center on the Transcript of Account. (See IRM 35.8.1.8.2).

22 At this point we can safely state that the IMF should not exist without a valid return; however, not only does this IMF exist,
23 it also shows additions to tax that must be attached to a valid return subscribed to by the taxpayer. The IMF record of those
24 who have been subjected to Substitute For Returns fails to show any posting of a valid taxpayer signed return therefore
25 these §6651 additions to tax (TC 300) have been erroneously posted. This appears to violate Title 26 U.S.C. §7214 and
26 Section 1203 of Public Law 105-206 because not only has this issue been challenged prior to now but every government
27 employee is required to know his job function.

28 **In Summation:**

29 The procedures for assessing taxes and the procedures for assessing penalties must be made in the same manner as
30 mandated by Congress. This has not been done with the IRS Substitute for Return Program included within this taxpayer’s
31 IMF Account. The IMF Account and all transactions taken since the posting of the invalid return must be rendered moot as
32 having no basis in law.

33 **9.2 Unlawful Delegated Returns under I.R.C. 6014: Consent is “presumed”**

34 26 U.S.C. §6014 says the following about IRS authority to execute “delegated returns”. Note that there are very specific
35 constraints where these delegated returns can be employed, and yet most of the time, the IRS completely ignores these
36 requirements and will do a 6014 delegated return on nearly anyone:

39 (a) *Election by taxpayer*

40 An individual who does not itemize his deductions and who is not described in section [6012 \(a\)\(1\)\(C\)\(i\)](#), whose
41 gross income is less than \$10,000 and includes no income other than remuneration for services performed by
42 him as an employee, dividends or interest, and whose gross income other than wages, as defined in section
43 [3401 \(a\)](#), does not exceed \$100, shall at his election not be required to show on the return the tax imposed by
44 section [1](#). Such election shall be made by using the form prescribed for purposes of this section. In such case the
45 tax shall be computed by the Secretary who shall mail to the taxpayer a notice stating the amount determined as
46 payable.

(b) Regulations

The Secretary shall prescribe regulations for carrying out this section, and such regulations may provide for the application of the rules of this section—

(1) to cases where the gross income includes items other than those enumerated by subsection (a),

(2) to cases where the gross income from sources other than wages on which the tax has been withheld at the source is more than \$100,

(3) to cases where the gross income is \$10,000 or more, or

(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5).

Such regulations shall provide for the application of this section in the case of husband and wife, including provisions determining when a joint return under this section may be permitted or required, whether the liability shall be joint and several, and whether one spouse may make return under this section and the other without regard to this section.

¹⁴ As found in 26 U.S.C. §7811(a)(3) Congress has made it clear that IRS employees do at times fail to follow published administrative guidance.

"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right."
[*Marbury v. Madison*, 5 U.S. 137 (1803)]

20 Therefore, if the IRS does a Substitute for Return (SFR) against an account, they essentially are assuming in most cases,
21 usually wrongfully and illegally, that you explicitly consented at some point to allow them to prepare a “delegated return”
22 for you and propose the assessment. What is illegal about this process are the following omissions nearly universally
23 employed by the IRS:

1. The account number identified in the IRS records is not a valid number:
 - 1.1. Social Security Numbers may be issued to statutory “U.S. citizens” or permanent residents pursuant to 20 CFR §422.104, and persons domiciled in states of the union are neither.
 - 1.2. 26 CFR §301.6109-1(d)(3) says that Taxpayer Identification Numbers may only be issued to “aliens” and that Individual Taxpayer Identification Numbers and Social Security Numbers are NOT equivalent. A statutory “U.S. citizen” can ONLY be an “alien” when he is abroad pursuant to 26 U.S.C. §911 and he is an alien in relation to the country he is temporarily within. There is no provision which would make a domestically situated statutory “U.S. citizen” pursuant to 8 U.S.C. §1401 an “alien” and there cannot be.

For further details on the above, see:

About SSNs and TINs on Government Forms and Correspondence, Form #05.012
<http://sedm.org/Forms/FormIndex.htm>

2. The IRS Form 1040 "Dummy" return is prepared. This is a blank form containing the name of the "taxpayer" and social security number at the top, with the rest of the 1040 form blank. The form is not signed by anyone, even though it does not become a valid assessment until signed, as described earlier in .5.
 3. A dummy assessment record is automatically created in the "taxpayer's" Individual Master File (IMF) as a Transaction Code 150 by the Automated Substitute For Return (ASFR) program at the IRS. The record has a Doc Code of "10" in digits 4 and 5 of the Document Locator Number (DLN). That Document Code corresponds with an IRS Form 1040A being filed. The IRS Form 1040A has the following characteristics:
 - 3.1. The "A" means automated. The IRS AIMS computer system computes the tax liability without any deductions using the sum of all of the "gross income" reports received that are associated with the Social Security Number appearing on the form. These reports of the receipt of "gross income" are called "Information Returns", and they consist of IRS Form W-2 and 1099 reports.
 - 3.2. The "1040A" form is not even available on their website. There is no such form. This form number, however, corresponds with the IRS 1040 dummy return.
 4. IRS Internal Revenue Manual, Section 5.1.11.6.8 indicates which forms may be used to perform Substitute For Returns. All return types EXCEPT the IRS Form 1040 are listed, which means they are not allowed to perform

- 1 Substitute For Returns using IRS Form 1040, even though they chronically and habitually violate this requirement
2 anyway.
3 5. Most Substitute for Returns (SFRs) scenarios do not meet the criteria established by 26 U.S.C. §6014.
4 5.1. The gross income amount involved is usually far greater than the maximum \$10,000 allowed by this section, for
5 instance.
6 5.2. The “taxpayers” consent was never procured to do the delegated return.
7 6. IRS is supposed to respect the requirement for your consent, and thereby stop the assessment and not perform further
8 collection if you either dispute the proposed assessment sent to you via mail or if you refuse to sign their collection
9 notice and provide their consent. In practice, they almost never do this.
10 7. The collection notice sent out indicates that the recipient is a “taxpayer”, which in most cases is false. They don’t
11 become a “taxpayer” unless and until they have “gross income” exceeding the exemption amount as indicated in 26
12 U.S.C. §6012. This “gross income” must be connected with a “trade or business”, and in most cases, no one except
13 federal “employees” or those holding “public office” can even earn “trade or business” income. This is confirmed by
14 the article below:

The “Trade or Business” Scam, Form #05.001

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

- 15 8. The assessment must be done by a live person and not a machine and this person must be certified as an “Assessment
16 Officer”. [26 CFR §301.6203-1](#). In practice, none of the people performing such assessments have any credentials at
17 all. They are instead low-skill, temporary help who have been hired as the fall guy to do what amounts to an illegal job
18 and organized extortion.
19 9. If you do a Freedom of Information Act (FOIA) request for the assessment documents to prove that the assessment was
20 done illegally, the IRS typically drags their feet responding until the collection process is near the end so that you
21 won’t have any legal recourse at that point and fewer options to make problems for them. This is another way of
22 illegally prejudicing the enforcement and protection of your rights. This is ironic, considering that the very purpose for
23 establishing government to begin with was to protect, rather than prejudice or undermine, Constitutional rights. If you
24 want an example FOIA to use for this purpose, see:
25 9.1. *IRS Freedom of Information Act Request*, Form #03.014
26 <http://sedm.org/Forms/FormIndex.htm>
27 9.2. *IMF Decoding Freedom of Information Act Requests*, Form #03.015
28 <http://sedm.org/Forms/FormIndex.htm>
29 10. The assessment is done by the wrong service center. Usually it is NOT done by the service center that services the area
30 where the “taxpayer” is located, as required by the I.R.C. Therefore, it is illegal. The reason IRS does it this way is
31 that it minimizes legal repercussions of this illegal activity by the assessing agent because target of the illegal
32 assessment has to take his case up in Federal Court instead of state court. This makes it costly and very inconvenient
33 for the target of the illegal assessment to initiate a Bivens Action against the offending revenue agent, who in most
34 cases is on the other side of the country and outside his home state, where it would be difficult to locate, serve with
35 legal process, or sue. This makes it so costly and inconvenient for most Americans to pursue redress that they just give
36 up rather than pursue legal redress for the unlawful assessment and collection activity.
37 11. 26 U.S.C. §6065 requires that all forms prepared under the authority of the Internal Revenue Code must be signed
38 under penalty of perjury, including those prepared by IRS employees. In practice, IRS never signs any of their
39 assessments under penalty of perjury. When you write the Commissioner of the IRS About this as we have, the
40 response you are likely to get is that this section only applies to the “taxpayer” and not IRS employees. However:
41 11.1. The section doesn’t exclude IRS employees, and therefore must include EVERYONE.
42 11.2. The Fourteenth Amendment section 1 requires that people domiciled in states of the Union must be afforded
43 “equal protection of the laws”, which means that everyone, whether citizen or public servant, must abide by the
44 same rules. To do otherwise is a violation of the requirement for equal protection of the law and a gross
45 hypocrisy and injustice. Here is what the U.S. Supreme Court said on this:

46 “*Decency, Security, and liberty alike demand that government officials shall be subjected to the same rules of
47 conduct that are commands to the citizen. In a government of laws, existence of the government will be
48 imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher.
49 For good or for ill, it teaches the whole people by its example. *Crime* is contagious. If the government becomes
50 a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites
51 anarchy. To declare that in the administration of the criminal law the end justifies the means...would bring
52 terrible retribution. Against that pernicious doctrine this *Court* should resolutely set its face.*”
53 [Justice Brandeis, *Olmstead v. United States*, 277 U.S. 438, 485. (1928)]

1 **9.3 Fraudulent Default for LTR1862 30 day Letter**

2 Another technique the IRS commonly uses to fraudulently procure consent of the “taxpayer” required by I.R.C. §6020(b)
3 is:

- 4 1. To perform the examination and enter Transaction Code 570 in the record, which means “Additional liability pending
5 and/or credit hold”. That means it isn’t a liability until something else happens. The step that makes it a liability is
6 CONSENT of “taxpayer”.
7 2. To send out the LTR 1862 “30 day letter” with the proposed assessment.
8 3. Wait the required 30 days for a response.
9 4. At the end of the required 30 days, look at the response:
10 4.1. If there is no response, to place the recipient of the notice in default and assume consent.
11 4.2. If the response contains an acceptance to the proposal, then the proposal becomes a lawful assessment subject to
12 collection enforcement
13 4.3. If the response denies consent to the proposal, to pretend that it was never received and place the recipient in
14 default and convert the proposal to an assessment against the wishes of the victim. Later if the victim produces
15 evidence that they timely responded to the notice and denied consent, to “pretend” that they never received the
16 correspondence or that it got lost.
17 5. Once fraudulent default is obtained, to enter TC

18 We prevent being fraudulently placed in default by any of the above techniques in the following mandatory notice that all
19 Members are required to send to the IRS:

20 1. Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001

- 21 1.1. Section 4.1 requires that all consent must be procured in writing signed by you where all rights surrendered and
22 all benefits they are exchanged for are also spelled out.
23 1.2. Section 4.2 reserves all rights, thereby undermining any opportunity to give away rights to the government.
24 1.3. Section 4.4 perpetually abandons any and all rights or benefits and therefore denies the ability of the government
25 to provide consideration to the franchise and therefore enforce the terms of the franchise against the submitter.
26 1.4. Section 8.3 establishes that any taxes paid are paid illegally and under protest by someone who is not a “taxpayer”
27 as defined in 26 U.S.C. §7701(a)(14).

28 2. Tax Form Attachment, Form #04.201

- 29 2.1. Section 1 says that you are not a “taxpayer” and therefore not even able to consent. Only “taxpayers” subject to
30 the I.R.C. can lawfully consent.
31 2.2. Section 6 establishes an anti-franchise franchise that requires the recipient to produce evidence of consent ONLY
32 in writing signed by the person consenting. This is the same requirement the government places on everyone
33 else: They must produce evidence in the form of a statute that there was an express waiver of sovereign
34 immunity.
35 2.3. Section 7 says you have no delegated authority to contract with the government, and therefore to consent to or be
36 bound by any franchise they offer, including the “trade or business” franchise.

37 If you would like copies of the two above forms, see:

SED M Forms Page
<http://sedm.org/Forms/FormIndex.htm>

38 **9.4 Fraudulent Consent at Examination Hearing**

39 26 CFR §601.105(b)(4) requires the consent to the proposed assessment and SFR before the proposal becomes an
40 enforceable assessment:

41 *TITLE 26-INTERNAL REVENUE*
42 *CHAPTER I-INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY*
43 *PART 601_STATEMENT OF PROCEDURAL RULES--Table of Contents*
44 *Subpart A_General Procedural Rules*
45 *Sec. 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax*
46 *liability.*

(4) Conclusion of examination.

At the conclusion of an office or field examination, the taxpayer is given an opportunity to agree with the findings of the examiner. If the taxpayer does not agree, the examiner will inform the taxpayer of the appeal rights. **If the taxpayer does agree with the proposed changes, the examiner will invite the taxpayer to execute either Form 870 or another appropriate agreement form.** When the taxpayer agrees with the proposed changes but does not offer to pay any deficiency or additional tax which may be due, the examiner will also invite payment (by check or money order), together with any applicable interest or penalty. If the agreed case involves income, profits, estate, gift, generation-skipping transfer, or Chapter 41, 42, 43, or 44 taxes, the agreement is evidenced by a waiver by the taxpayer of restrictions on assessment and collection of the deficiency, or an acceptance of a proposed overassessment. **If the case involves excise or employment taxes or 100 percent penalty, the agreement is evidenced in the form of a consent to assessment and collection of additional tax or penalty and waiver of right to file claim for abatement, or the acceptance of the proposed overassessment.** Even though the taxpayer signs an acceptance of a proposed overassessment the district director or the director of the regional service center remains free to assess a deficiency. On the other hand, the taxpayer who has given a waiver may still claim a refund of any part of the deficiency assessed against, and paid by, the taxpayer, or any part of the tax originally assessed and paid by the taxpayer. **The taxpayer's acceptance of an agreed overassessment does not prevent the taxpayer from filing a claim and bringing a suit for an additional sum, nor does it preclude the Government from maintaining suit to recover an erroneous refund.** As a matter of practice, however, waivers or acceptances ordinarily result in the closing of a case insofar as the Government is concerned.

as far as the Government is concerned.
[26 CFR §601.105(b)(4);
SOURCE: http://edocket.access.gpo.gov/cfr_2006/apr/rtr/26cfr601.105.html]

The above regulation is found in Part 601 of the Title 26 regulations, which means it is a procedural regulation. The IRS may try to assert that they are not bound by the above regulation because it is a procedural regulation. Below is an example they may try to cite in defending such an erroneous stance:

Taxpayers also assert that jurisdiction arises under 28 U.S.C. § 1340, which provides that "(t)he district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue" We, however, agree with the district court that this action arises from an Internal Revenue Service regulation and not an Act of Congress. 26 C.F.R. § 601.107(b)(2) is a part of the Internal Revenue Service's Statement of Procedural Rules promulgated under 5 U.S.C. §§ 301, 552. Their purpose is to govern the internal affairs of the Internal Revenue Service. They do not have the force and effect of law. *United States v. Thomas*, 593 F.2d. 615 (5th Cir. 1979). *Luhring v. Glotzbach*, 304 F.2d. 560 (4th Cir. 1962). [*Einhorn v. DeWitt*, 618 F.2d. 347 (5th Cir. 06/04/1980)]

However, the subject of the above case was “taxpayers” who are subject to the “trade or business” franchise agreement codified in the I.R.C. Subtitles A and C and does not and cannot confine the rights of those who are not “taxpayers” as statutorily defined in 26 U.S.C. §7701(a)(14):

“Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of the object of federal revenue laws.”

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

The following authorities establish that IRS is bound by non-legislative regulations so far omission in executing them can adversely affect constitutionally protected rights:

1. 26 U.S.C. §7811(a)(3) requires that the IRS MUST follow its own administrative guidance and authorizes the Taxpayer Advocate to side with the “taxpayer”:

[TITLE 26](#) > [Subtitle F](#) > [CHAPTER 80](#) > [Subchapter A](#) > § 7811
[§ 7811. Taxpayer Assistance Orders](#)

(a) Authority to issue

(3) Standard where administrative guidance not followed

In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a Taxpayer Assistance Order in the manner most favorable to the taxpayer.

- 1 2. The IRS Restructuring and Reform Act of 1998, 112 Stat. 685, p. 704 again created and echoes the above language.
2 3. The U.S. Supreme Court in Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974):

3 *"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.
4 This is so even where the internal procedures are possibly more rigorous than otherwise would be required.
5 Service v. Dulles, 354 U.S. 363, 388, 77 S.Ct. 1152, 1165, 1 L.Ed.2d. 1403 (1957); Vitarelli v. Seaton, 359 U.S.
6 535, 539-540, 79 S.Ct. 968, 972-973, 3 L.Ed.2d. 1012 (1959). The BIA, by its Manual, has declared that all
7 directives that 'inform the public of privileges and benefits available' and of 'eligibility requirements' are
8 among those to be published. The requirement that, in order to receive general assistance, an Indian must
9 reside directly 'on' a reservation is clearly an important substantive policy that fits within this class of
10 directives. Before the BIA may extinguish the entitlement of these otherwise eligible beneficiaries, it must
11 comply, at a minimum, with its own internal procedures.*

12 *The Secretary has presented no reason why the requirements of the Administrative Procedure Act could not
13 or should not have been met. Cf. SEC v. Chenery Corp., 332 U.S. 194, 202, 67 S.Ct. 1575, 1580, 91 L.Ed. 1995
14 (1947). The BIA itself has not attempted to defend its rule as a valid exercise of its 'legislative power,' but
15 rather depends on the argument that Congress itself has not appropriated funds for *236 Indians **1075 not
16 directly on the reservations. The conscious choice of the Secretary not to treat this extremely significant
17 eligibility requirement, affecting rights of needy Indians, as a legislative-type rule, renders it ineffective so
18 far as extinguishing rights of those otherwise within the class of beneficiaries contemplated by Congress is
19 concerned."*

20 [Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974)]

- 21 The above requirements pertain to "taxpayers" and other franchisees participating in "public rights". The requirement to
22 obey agency regulations is even stronger in the case of those not participating in public franchises and therefore who are not
23 "taxpayers" as defined in 26 U.S.C. §7701(a)(14) because a failure to heed regulations would injure constitutional rights
24 and thereby result in a tort cognizable as a Bivens Action against the offending agent.

25 **10 Resources to Detect and Prevent Unlawful Substitute For Returns (SFRs)**

26 If you are a victim of an illegal Substitute For Return (SFR) or assessment, the following defenses are available on our
27 website:

- 28 1. You should send the following three Freedom of Information Act requests for the years relating to the bogus
29 assessment and thereby obtain all the assessment documents:
30 *IMF Decoding Freedom of Information Act Requests*, Form #03.015
31 <http://sedm.org/Forms/FormIndex.htm>
- 32 2. After you receive the response to the above FOIA, you may want to file the criminal complaint against the assessment
33 officer:
34 *Criminal Complaint in Connection with IRS Notice of Deficiency*, Litigation Tool #08.006
35 <http://sedm.org/Litigation/LitIndex.htm>
- 36 3. You may want to obtain our Master File Decoder to prove to yourself that the assessment was illegally executed and
37 generate further court-admissible evidence of the fraud:
38 Master File Decoder
39 <http://sedm.org/ItemInfo/Programs/MFDecoder/MFDecoder.htm>
- 40 4. If you don't have the time to decoder your own IMF, you may want to sign up on our website for a Full Service IMF
41 Decode. Please make sure, however, that you FIRST send in and receive responses to all three FOIAs listed in item #1
42 above BEFORE you sign up:
43 Full Service IMF Decode
44 <http://sedm.org/ItemInfo/Services/IMFDecoding/DecodingSignup.htm>

37 **11 Rebutted Arguments against this document**

38 Now when the IRS hears this argument, they often try to say that the above definition of "person" uses the word "includes",
39 which is an expansive rather than limiting term. Here is what they will quote, from 26 U.S.C. §7701(c) in making this
40 statement:

41 "Sec. 7701(c) INCLUDES AND INCLUDING. –

1 The terms ‘include’ and ‘including’ when used in a definition contained in this title shall not be deemed to
2 exclude other things otherwise within the meaning of the term defined.

3 The IRS will say that the phrase in 26 CFR § 301.6671-1 “includes an officer or employee of a corporation” does not
4 exclude other uses of the term, like EVERYONE else or ALL Americans, because of the definition of the word “includes”
5 found in section 3.12.1.8 of the Great IRS Hoax, Form #11.302. But we know from statements made in Congressional
6 Research Service Report 97-59A that Subtitles A and C income taxes are excise taxes, and that the “persons” indicated in
7 the above regulations are the only ones in receipt of privileges from the U.S. government. Expanding the operation of
8 penalties beyond these legal fictions called “persons” makes the income tax operate effectively as a direct tax rather than an
9 indirect tax, which is clearly unconstitutional if enforced outside of federal jurisdiction or within states of the Union.

10 The answer to this issue on the abuse of the word “includes” and “including” by the IRS appears in the free pamphlet
11 below:

12 **Meaning of the Words “includes” and “including”, Form #05.014**
13 <http://sedm.org/Forms/FormIndex.htm>

14 This is a very common and unscrupulous tactic designed to confuse and intimidate Americans and illegally expand the
15 jurisdiction of the taxing power of the federal government for Subtitle A income taxes beyond its clear limits found in the
16 definition of “United States” in 26 U.S.C. §7701(a)(9) and “State” found in 26 U.S.C. §7701(a)(10).

17 **12 Conclusions and Summary**

18 This section will describe all the reasons why the only person who can assess you, a man or woman, with an income tax
19 liability or make yourself into a “taxpayer” under Internal Revenue Code, Subtitle A is you and not the government or any
20 third party. This subject is very important in explaining why the IRS has no legal authority to assess you with an income
21 tax liability or to perform substitute for returns, as we will exhaustively prove later in this document.

22 Below is a summary of the reasons why the only person who can assess you with a tax liability is you:

23 1. The Internal Revenue Code pertains to income from “sources within the United States” pursuant to 26 U.S.C. §871.
24 The “United States” they mean is the U.S. government and the public offices within the U.S. government and nowhere
25 expressly includes any part of a state of the Union:

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

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

30 (9) United States

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

33 (10) State

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

36 Consequently, states of the Union must be presumed to NOT be included in the above definition based on the rules of
37 statutory construction:

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

1 **"When a statute includes an explicit definition, we must follow that definition, even if it varies from that**
2 **term's ordinary meaning.** Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory
3 definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n.
4 10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated'");
5 Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S.
6 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, *Sutherland on Statutes and Statutory Construction* §
7 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at
8 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include
9 the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the
10 contrary."
11 [\[Stenberg v. Carhart, 530 U.S. 914 \(2000\)\]](#)

12 **"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term.** Colautti v.
13 Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed
14 in other legislation, has no pejorative connotation. **As judges, it is our duty to [481 U.S. 485] construe**
15 **legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who**
16 **has not even read it.**
17 [\[Meese v. Keene, 481 U.S. 465, 484 \(1987\)\]](#)

- 18 2. Internal Revenue Code, Subtitle A describes an excise tax upon privileges associated with a voluntary activity called a
19 "trade or business". All excise taxes are based on the exercise of privileges and all those who partake of said privileges
20 are participating in a "franchise".

21 *"The Corporation Tax is not a direct tax within the enumeration provision of the Constitution, but is an impost*
22 *or excise which Congress [220 U.S. 107] has power to impose under Art. I, § 8, cl. 1, of the Constitution.*
23 *Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601, distinguished.*

24 *"Indirect taxation includes a tax on business done in a corporate capacity; the difference between it and direct*
25 *taxation imposed on property because of its ownership is substantial, and not merely nominal.*

26 *"Excises are taxes laid upon the manufacture, sale, or consumption of commodities within the country, upon*
27 *licenses to pursue certain occupations and upon corporate privileges; the requirement to pay such taxes*
28 *involves the exercise of the privilege, and if business is not done in the manner described, no tax is payable."*
29 [\[Flint vs. Stone Tracy Co., 220 U.S. 107 \(1911\)\]](#)

31 *"We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the*
32 *16th Amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax*
33 *which, although direct, should not be subject to the regulation of apportionment applicable to all other direct*
34 *taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many*
35 *contentions advanced in argument to support it..."*

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

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

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

- 50 3. A "trade or business" is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office".

51 [TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)
52 [§ 7701. Definitions](#)

53 (a) Definitions

54 (26) Trade or business

- 2 4. All "taxpayers" within the I.R.C. are "public officers" engaged in a "trade or business".

3 NORMAL TAXES AND SURTAXES
4 DETERMINATION OF TAX LIABILITY
5 Tax on Individuals
6 Sec. 1.1-1 Income tax on individuals.

7 (a)(2)(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by
8 the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or
9 business in the United States by a married alien individual who is a nonresident of the United States for all or
10 part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as
11 amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in
12 the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of
13 the United States for all or part of the taxable year. See paragraph (b)(2) of section 1.871-8." [26 CFR §1.1-
14 1(a)(2)(ii)]

16 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 79](#) > §7701
17 §7701. Definitions 26 U.S.C. §7701(a)(31)

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

20 (31) Foreign estate or trust

21 (A) Foreign estate

22 The term "foreign estate" means an estate the income of which, from sources without the United States which is
23 not effectively connected with the conduct of a trade or business within the United States, is not includable in
24 gross income under subtitle A.

- 25 5. The only person who can lawfully contribute private property to a "public use", a "public office", or a "public purpose"
26 is the owner of the PRIVATE property.

27 "Men are endowed by their Creator with certain unalienable rights,-'life, liberty, and the pursuit of happiness,'
28 and to 'secure,' not grant or create, these rights, governments are instituted. That property for income] which a
29 man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use
30 it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second,
31 that if he devotes it to a public use, he gives to the public a right to
32 control that use; and third, that whenever the public needs require, the public may take it upon
33 payment of due compensation.
34 [Budd v. People of State of New York, 143 U.S. 517 (1892)]

- 35 6. It is ILLEGAL to convert PRIVATE PROPERTY to a "public office", "public use", or "public purpose" without the
36 consent of the person owning the property. This is called "conversion", and it is a criminal violation of 18 U.S.C. §654
37 to convert someone's private property to a "public use" or a "public office" without their consent:

38 [TITLE 18](#) > [PART I](#) > [CHAPTER 31](#) > § 654
39 § 654. Officer or employee of United States converting property of another

40 Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles
41 or wrongfully converts to his own use the money or property of another which comes into his possession or
42 under his control in the execution of such office or employment, or under color or claim of authority as such
43 officer or employee, shall be fined under this title or not more than the value of the money and property thus
44 embezzled or converted, whichever is greater, or imprisoned not more than ten years, or both; but if the sum
45 embezzled is \$1,000 or less, he shall be fined under this title or imprisoned not more than one year, or both.

- 46 7. When an IRS employee does an involuntary assessment upon a person's private property in order to assess a tax, he is
47 converting private property to a "public office" and a "public use", and if he does so without the consent of the subject,
48 he is violating 18 U.S.C. §654 above.

- 1 8. It is ILLEGAL for a person to impersonate a “public officer” who does not in fact hold elected or appointed public
2 office in the United States government. See 18 U.S.C. §912:

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

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

- 9 9. Pursuant to 4 U.S.C. §72, all “public offices” shall be exercised ONLY in the District of Columbia and NOT
10 elsewhere.

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

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

- 15 10. Reflecting the above, the U.S. Supreme Court has emphatically said that Congress may not create a “trade or business”
16 within a state of the Union in order to tax it:

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

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

- 33 11. The decision to enter a “public office”, like every other form of employment, is entirely voluntary and may not
34 lawfully be coerced.

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

- 38 12. Anyone with earnings connected with the “trade or business” franchise is considered to be a “taxpayer” as legally
39 defined with “gross income”. Only amounts directly connected with the “trade or business” franchise are considered
40 “gross income” subject to tax, rather than ALL EARNINGS of the person.

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

45 *“Excises are taxes laid upon the manufacture, sale or consumption of commodities within the country, upon*
46 *licenses to pursue certain occupations and upon corporate privileges...the requirement to pay such taxes*
47 *involves the exercise of privileges, and the element of absolute and unavoidable demand is lacking...*

48 *...It is therefore well settled by the decisions of this court that when the sovereign authority has exercised the*
49 *right to tax a legitimate subject of taxation as an exercise of a franchise or privilege, it is no objection that the*
50 *measure of taxation is found in the income produced in part from property which of itself considered is*
51 *nontaxable...”*

1 Conceding the power of Congress to tax the business activities of private corporations.. the tax must be
2 measured by some standard..."
3 [[Flint v. Stone Tracy Co., 220 U.S. 107 \(1911\)](#)]

5 "Income" has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the
6 Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern Pacific Co. v. Lowe,
7 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full consideration, this
8 Court declared that income may be defined as gain derived from capital, from labor, or from both combined,
9 including profit gained through sale or conversion of capital. Stratton's Independence v. Howbert, 231 U.S.
10 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 207. And
11 that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v. Smietanka,
12 supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169; Miles v. Safe
13 Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin v. Gavit,
14 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes income,
15 substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S. 175]"
16 [Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926)]

- 17 13. IRS information returns are the method of connecting earnings to the "trade or business" activity. See 26 U.S.C.
18 §6041. Information returns include IRS Forms W-2, 1042S-1098, 1099, K-1, and 8300. All earnings reported on these
19 forms are presumed to be connected with the "trade or business" and "public office" excise taxable franchises.

20 [TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041](#)
21 [§ 6041. Information at source](#)

22 (a) Payments of \$600 or more

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

- 33 14. In almost all cases, IRS information returns filed are FALSE and may be rebutted and corrected. The reason these
34 reports are usually false is because of the outright LIES and deliberate OMISSIONS contained within IRS publications,
35 phone support, and advice. See:

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

- 36 15. False information returns may lawfully be corrected any time after they have been erroneously filed using the forms
37 and procedures documented below:

38 15.1. Correcting Erroneous Information Returns, Form #04.001
<http://sedm.org/Forms/FormIndex.htm>

39 15.2. Correcting Erroneous IRS Form 1042's, Form #04.003
<http://sedm.org/Forms/FormIndex.htm>

40 15.3. Correcting Erroneous IRS Form 1098's, Form #04.004
<http://sedm.org/Forms/FormIndex.htm>

41 15.4. Correcting Erroneous IRS Form 1099's, Form #04.005
<http://sedm.org/Forms/FormIndex.htm>

42 15.5. Correcting Erroneous IRS Form W-2's, Form #04.006
<http://sedm.org/Forms/FormIndex.htm>

- 43 16. It is a crime and a civil tort to file false information return reports.

44 16.1. 26 U.S.C. §7434 makes it a civil tort to file false information returns.

45 16.2. 26 U.S.C. §7206 and 7207 make it a crime.

- 46 17. IRS information returns constitute "prima facie" evidence that the person against who they are filed is engaged in the
47 "trade or business" franchise. The target of these reports is required to receive a copy of them and if they go
48 unrebutted, they are illegally presumed by courts and the IRS to be fact and legally admissible evidence, even though:
49 17.1. They are not signed as required under penalty of perjury and must be so signed in order to constitute legally
50 admissible evidence.

- 1 17.2. The Hearsay Rule, Federal Rule of Evidence 802 requires that information returns be excluded from evidence.
- 2 18. If you are not voluntarily serving in a privileged “public office” within the U.S. government, then you cannot earn any
- 3 “gross income” (26 U.S.C. §61) connected with the excise tax upon the franchise unless you “elect” to make it so by
- 4 signing and submitting IRS Form W-4. At the point when a person who is a “nontaxpayer” signs and submits IRS
- 5 Form W-4, they agree by contract to call what they earn “wages” and “gross income” as legally defined which is
- 6 subject to tax.

7 *Title 26*
8 *CHAPTER I*
9 *SUBCHAPTER C*
10 *PART 31*
11 *Subpart E*
12 *Sec. 31.3402(p)-1 Voluntary withholding agreements.*

13 (a) *In general.*

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

26 *26 CFR Sec. 31.3401(a)-3 Amounts deemed wages under **voluntary withholding***
27 ***agreements.***

28 (a) *In general.*

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

- 34 19. Those who are not **already** serving in federal public office and who never voluntarily signed and submitted IRS Form
35 W-4 or who were threatened with losing a job or not being hired for failure to sign and submit IRS Form W-4 cannot
36 lawfully earn “wages” as legally defined and therefore none of their earnings from labor are subject to tax or reportable
37 as “income” on IRS Form W-2.

38 *“An agreement [consensual contract] obtained by duress, coercion, or intimidation is invalid, since the party*
39 *coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to*
40 *execute the agreement as the state of mind induced.⁵ Duress, like fraud, rarely becomes material, except where*
41 *a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders*
42 *the contract or conveyance voidable, not void, at the option of the person coerced,⁶ and it is susceptible of*
43 *ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it.⁷*

44 *However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has*
45 *no intention of doing so, is generally deemed to render the resulting purported contract void.⁸”*

⁵ Brown v. Pierce, 74 U.S. 205, 7 Wall 205, 19 L.Ed. 134

⁶ Barnette v. Wells Fargo Nevada Nat'l Bank, 270 U.S. 438, 70 L.Ed. 669, 46 S.Ct. 326 (holding that acts induced by duress which operate solely on the mind, and fall short of actual physical compulsion, are not void at law, but are voidable only, at the election of him whose acts were induced by it); Faske v. Gershman, 30 Misc 2d 442, 215 NYS2d 144; Glenney v. Crane (Tex Civ App Houston (1st Dist)) 352 SW2d 773, writ ref n r e (May 16, 1962); Carroll v. Fetty, 121 W Va 215, 2 SE2d 521, cert den 308 U.S. 571, 84 L.Ed. 479, 60 S.Ct. 85.

⁷ Faske v. Gershman, 30 Misc 2d 442, 215 NYS2d 144; Heider v. Unicume, 142 Or 416, 20 P2d 384; Glenney v. Crane (Tex Civ App Houston (1st Dist)) 352 SW2d 773, writ ref n r e (May 16, 1962)

⁸ Restatement 2d, Contracts § 174, stating that if conduct that appears to be a manifestation of assent by a party who does not intend to engage in that conduct is physically compelled by duress, the conduct is not effective as a manifestation of assent.

- 2 20. If duress was instituted in forcing you to sign and submit IRS Form W-4, then the government has an obligation to
 3 return ALL of the money to you, not as a “taxpayer” or under any provision of the I.R.C. or other law, but under
 4 principles of equity. Remember, the I.R.C. only pertains to “taxpayers”.

5 *“Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are without their scope. No
 6 procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies
 7 in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the
 8 subject nor of the object of federal revenue laws.”*
 9 *[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]*

- 10 Those who were compelled to participate in franchises against their will are not “taxpayers”, but rather “nontaxpayers”
 11 and victims of crime and extortion who the government was created to serve and protect, not enslave.

12 *“A claim against the United States is a right to demand money from the United States.⁹ Such claims are
 13 sometimes spoken of as gratuitous in that they cannot be enforced by suit without statutory consent.¹⁰ The
 14 general rule of non-liability of the United States does not mean that a citizen cannot be protected against the
 15 wrongful governmental acts that affect the citizen or his or her property.¹¹ If, for example, money or property
 16 of an innocent person goes into the federal treasury by fraud to which a government agent was a party, the
 17 United States cannot [lawfully] hold the money or property against the claim of the injured party.¹²”*
 18 *[American Jurisprudence 2d, United States, §45]*

20 *“When the Government has illegally received money which is the property of an innocent citizen and when this
 21 money has gone into the Treasury of the United States, there arises an implied contract on the part of the
 22 Government to make restitution to the rightful owner under the Tucker Act and this court has jurisdiction to
 23 entertain the suit.*

24 *90 Ct.Cl. at 613, 31 F.Supp. at 769.”*
 25 *[Gordon v. U. S., 227 Ct.Cl. 328, 649 F.2d. 837 (Ct.Cl., 1981)]*

27 *“The United States, we have held, cannot, as against the claim of an innocent party, hold his money which
 28 has gone into its treasury by means of the fraud of its agent. While here the money was taken through mistake
 29 without element of fraud, the unjust retention is immoral and amounts in law to a fraud of the taxpayer's rights.
 30 What was said in the State Bank Case applies with equal force to this situation. ‘An action will lie whenever
 31 the defendant has received money which is the property of the plaintiff, and which the defendant is obligated
 32 by natural justice and equity to refund. The form of the indebtedness or the mode in which it was incurred is
 33 immaterial.’”*
 34 *[Bull v. United States, 295 U.S. 247, 261, 55 S.Ct. 695, 700, 79 L.Ed. 1421]*

- 35 21. The requirement to file a federal income tax return does not originate by statute. In fact, there is no liability statute
 36 within the Internal Revenue Code that indicates a liability to file a return. Neither the IRS nor any court we are aware
 37 of has ever identified a liability statute. The real liability originates from the condition of participating in a “public
 38 office” franchise within the U.S. Government, which the I.R.C. calls a “trade or business”.

39 *I: DUTY TO ACCOUNT FOR PUBLIC FUNDS*

40 *§ 909. In general.-*

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

⁹ United States ex rel. Angarica v. Bayard, 127 U.S. 251, 32 L.Ed. 159, 8 S.Ct. 1156, 4 AFTR 4628 (holding that a claim against the Secretary of State for money awarded under a treaty is a claim against the United States); Hobbs v. McLean, 117 U.S. 567, 29 L.Ed. 940, 6 S.Ct. 870; Manning v. Leighton, 65 Vt 84, 26 A 258, motion dismd 66 Vt 56, 28 A 630 and (disapproved on other grounds by Button's Estate v. Anderson, 112 Vt 531, 28 A2d 404, 143 ALR 195).

¹⁰ Blagge v. Balch, 162 U.S. 439, 40 L.Ed. 1032, 16 S.Ct. 853.

¹¹ Wilson v. Shaw, 204 U.S. 24, 51 L.Ed. 351, 27 S.Ct. 233.

¹² Bull v. United States, 295 U.S. 247, 79 L.Ed. 1421, 55 S.Ct. 695, 35-1 USTC ¶ 9346, 15 AFTR 1069; United States v. State Bank, 96 U.S. 30, 96 Otto 30, 24 L.Ed. 647.

1 [Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890;
2 SOURCE: <http://books.google.com/books?id=g-19AAAAIAAJ&printsec=titlepage>]

3 Those participating in federal franchises implicitly do so voluntarily and therefore no liability statute is required. See:
4 Government Instituted Slavery Using Franchises, Form #05.030
<http://sedm.org/Forms/FormIndex.htm>

5 22. A person who does not file federal income tax returns is called a “nonfiler”, which is defined as follows:

6 *IRS Restructuring and Reform Act of 1998, Section 3707, 112 Stat. 778*
7 SEC. 3707. ILLEGAL TAX PROTESTER DESIGNATION.

8 (a) *PROHIBITION.—The officers and employees of the Internal Revenue Service—*

9 (1) *shall not designate taxpayers as illegal tax protesters (or any similar designation); and*

10 (2) *in the case of any such designation made on or before the date of the enactment of this Act—*

11 (A) *shall remove such designation from the individual master file; and*

12 (B) *shall disregard any such designation not located in the individual master file.*

13 (b) *DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service*
14 *may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer*
15 *has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.*

16 (c) *EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act,*
17 *except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before*
18 *January 1, 1999.*

19 23. The only way to lawfully create a liability under the Internal Revenue Code, Subtitle A is the following:

20 23.1. Completing, signing, and submitting an IRS “return” pursuant to 26 U.S.C. §6151(a).

21 23.2. Signing a blank return form and sending it into the IRS to delegate them the authority to finish it for you pursuant
22 to 26 U.S.C. §§6020 and 6014. We call this a “delegated return”.

23 24. IRS may only lawfully execute deficiency procedures against persons who have ALREADY completed, signed, and
24 submitted their own return in the case of I.R.C. Subtitle A. In that case, the IRS may assess an additional deficiency
25 amount if there was an error or omission on the return.

26 25. According to the IRS Internal Revenue Manual, the only types of returns for which the IRS may execute Substitute For
26 Returns (SFRs) pursuant to 26 U.S.C. §6020(b) are the following.

27 *Internal Revenue Manual*

28 *5.1.11.6.8 (05-27-1999)*

29 *IRC 6020(b) Authority*

30 1. *The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):*

31 A. *Form 940, Employer's Annual Federal Unemployment Tax Return*

32 B. *Form 941, Employer's Quarterly Federal Tax Return*

33 C. *Form 943, Employer's Annual Tax Return for Agricultural Employees*

34 D. *Form 720, Quarterly Federal Excise Tax Return*

35 E. *Form 2290, Heavy Vehicle Use Tax Return*

36 F. *Form CT-1, Employer's Annual Railroad Retirement Tax Return*

37 G. *Form 1065, U.S. Return of Partnership Income.*

38 2. *Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue*
39 *officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to*
40 *prepare and execute returns under IRC 6020(b).*

41 Note that IRS form 1040 and all of its variants do not appear in the above list and that all of the “nonfilers” who are the
42 object of the IRS Substitute For Return program are:

43 25.1. “employers” who are all part of the U.S. government and who have “public officers” called “employees” (see 26
44 CFR §31.3401(c)-1) working for them.

45 25.2. Not persons who have rights.

46 25.3. Are persons who are part of the three groups specifically exempted from the requirement for implementing
47 enforcement regulations published in the Federal Register found in 5 U.S.C. §553(a) and 44 U.S.C. §1505(a).

- 1 26. The requirement to pay an income tax originates from the voluntary choice of domicile within the exclusive territorial
2 jurisdiction of a government. In exchange for “police protection”, the duty to provide “allegiance and support” is a
3 reciprocal obligation associated with the protection.

4 *“Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in
5 transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the
6 Fourteenth Amendment makes one a citizen of the state wherein he resides, the fact of residence creates
7 universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter
8 obviously includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course,
9 the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most
10 obvious illustration being a tax on realty laid by the state in which the realty is located.”*
11 [Miller Brothers Co. v. Maryland, [347 U.S. 340](#) (1954)]

12 *“This right to protect persons having a domicile, though not native-born or naturalized citizens, rests on the
13 firm foundation of justice, and the claim to be protected is earned by considerations which the protecting power
14 is not at liberty to disregard. Such domiciled citizen pays the same price for his protection as native-born or
15 naturalized citizens pay for theirs. He is under the bonds of allegiance to the country of his residence, and, if he
16 breaks them, incurs the same penalties. He owes the same obedience to the civil laws. His property is, in the
17 same way and to the same extent as theirs, liable to contribute to the support of the Government. In nearly all
18 respects, his and their condition as to the duties and burdens of Government are undistinguishable.”*
19 [Fong Yu Ting v. United States, [149 U.S. 698](#) (1893)]

20 See:

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

- 23 27. If you don't want government protection, you can't be forced to either accept it or pay for it because:
24 27.1. No one can force you to choose or declare a domicile within the jurisdiction of the government. Only you can fill
25 out and voluntarily sign the government forms that declare a “permanent address”, “residence”, or “domicile”
26 within the jurisdiction of a government.
27 27.2. The choice of domicile is a First Amendment choice of political affiliation that on you can make. If anyone in
28 government makes the choice for you, they are violating the First Amendment prohibition against compelled
29 association.
27.3. A government that forces you to choose a domicile within its jurisdiction and pay for protection you don't want
and don't need is a “protection racket” and an organized crime syndicate that must put itself in jail.

30 *“The right to associate or not to associate with others solely on the basis of individual choice, not being
31 absolute,¹³ may conflict with a societal interest in requiring one to associate with others, or to prohibit one
32 from associating with others, in order to accomplish what the state deems to be the common good. The
33 Supreme Court, though rarely called upon to examine this aspect of the right to freedom of association, has
34 nevertheless established certain basic rules which will cover many situations involving forced or prohibited
35 associations. Thus, where a sufficiently compelling state interest, outside the political spectrum, can be
36 accomplished only by requiring individuals to associate together for the common good, then such forced
37 association is constitutional.¹⁴ But the Supreme Court has made it clear that compelling an individual to
38 become a member of an organization with political aspects, or compelling an individual to become a member
39 of an organization which financially supports, in more than an insignificant way, political personages or
40 goals which the individual does not wish to support, is an infringement of the individual's constitutional
41 right to freedom of association.¹⁵ The First Amendment prevents the government, except in the most
42 compelling circumstances, from wielding its power to interfere with its employees' freedom to believe and*

¹³ § 539.

¹⁴ Lathrop v. Donohue, 367 U.S. 820, 81 S. Ct. 1826, 6 L.Ed.2d. 1191 (1961), reh'g denied, 368 U.S. 871, 82 S. Ct. 23, 7 L.Ed.2d. 72 (1961) (a state supreme court may order integration of the state bar); Railway Emp. Dept. v. Hanson, 351 U.S. 225, 76 S. Ct. 714, 100 L. Ed. 1112 (1956), motion denied, 351 U.S. 979, 76 S. Ct. 1044, 100 L. Ed. 1494 (1956) and reh'g denied, 352 U.S. 859, 77 S. Ct. 22, 1 L.Ed.2d. 69 (1956) (upholding the validity of the union shop provision of the Railway Labor Act).

The First Amendment right to freedom of association of teachers was not violated by enforcement of a rule that white teachers whose children did not attend public schools would not be rehired. Cook v. Hudson, 511 F.2d. 744, 9 Empl. Prac. Dec. (CCH) ¶ 10134 (5th Cir. 1975), reh'g denied, 515 F.2d. 762 (5th Cir. 1975) and cert. granted, 424 U.S. 941, 96 S. Ct. 1408, 47 L.Ed.2d. 347 (1976) and cert. dismissed, 429 U.S. 165, 97 S. Ct. 543, 50 L.Ed.2d. 373, 12 Empl. Prac. Dec. (CCH) ¶ 11246 (1976).

Annotation: Supreme Court's views regarding Federal Constitution's First Amendment right of association as applied to elections and other political activities, 116 L.Ed.2d. 997, § 10.

¹⁵ Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S. Ct. 2729, 111 L.Ed.2d. 52, 5 I.E.R. Cas. (BNA) 673 (1990), reh'g denied, 497 U.S. 1050, 111 S. Ct. 13, 111 L.Ed.2d. 828 (1990) and reh'g denied, 497 U.S. 1050, 111 S. Ct. 13, 111 L.Ed.2d. 828 (1990) (conditioning public employment hiring decisions on political belief and association violates the First Amendment rights of applicants in the absence of some vital governmental interest).

associate, or to not believe and not associate; it is not merely a tenure provision that protects public employees from actual or constructive discharge.¹⁶ Thus, First Amendment principles prohibit a state from compelling any individual to associate with a political party, as a condition of retaining public employment.¹⁷ The First Amendment protects nonpolicymaking public employees from discrimination based on their political beliefs or affiliation.¹⁸ But the First Amendment protects the right of political party members to advocate that a specific person be elected or appointed to a particular office and that a specific person be hired to perform a governmental function.¹⁹ In the First Amendment context, the political patronage exception to the First Amendment protection for public employees is to be construed broadly, so as presumptively to encompass positions placed by legislature outside of "merit" civil service. Positions specifically named in relevant federal, state, county, or municipal laws to which discretionary authority with respect to enforcement of that law or carrying out of some other policy of political concern is granted, such as a secretary of state given statutory authority over various state corporation law practices, fall within the political patronage exception to First Amendment protection of public employees.²⁰ However, a supposed interest in ensuring effective government and efficient government employees, political affiliation or loyalty, or high salaries paid to the employees in question should not be counted as indicative of positions that require a particular party affiliation.²¹

[American Jurisprudence 2d, Constitutional law, §546: Forced and Prohibited Associations]

28. A person who chooses a domicile within a jurisdiction and thereby become a "customer" for the protection offered by the government is referred to by any one of the following names:
- 28.1. "citizen", which is a "national" born in or naturalized in a "state" and who has a "domicile" within that state.
 - 28.2. "resident", which is an alien or foreign national who has a domicile within a state.
 - 28.3. "inhabitant", which is either a "citizen" or a "resident".
 - 28.4. "taxpayer" as defined in 26 U.S.C. §7701(a)(14) and 26 U.S.C. §1313.
 - 28.5. "U.S. person" pursuant to 26 U.S.C. §7701(a)(30).
29. You have a RIGHT to not do business with the government, and in fact, the Bible MANDATES that you cannot do business with or participate in the franchises of any government. See:

Delegation of Authority Order from God to Christians, Form #10.008

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

30. Persons who choose NOT to do business with the government or procure its "protection services" are called:
- 30.1. A "sovereign"
 - 30.2. "foreign". See:

"Sovereign" = "Foreign"

¹⁶ Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S. Ct. 2729, 111 L.Ed.2d. 52, 5 I.E.R. Cas. (BNA) 673 (1990), reh'g denied, 497 U.S. 1050, 111 S. Ct. 13, 111 L.Ed.2d. 828 (1990) and reh'g denied, 497 U.S. 1050, 111 S. Ct. 13, 111 L.Ed.2d. 828 (1990).

Annotation: Public employee's right of free speech under Federal Constitution's First Amendment—Supreme Court cases, 97 L.Ed. 2d 903.

First Amendment protection for law enforcement employees subjected to discharge, transfer, or discipline because of speech, 109 A.L.R. Fed. 9.

First Amendment protection for judges or government attorneys subjected to discharge, transfer, or discipline because of speech, 108 A.L.R. Fed. 117.

First Amendment protection for public hospital or health employees subjected to discharge, transfer, or discipline because of speech, 107 A.L.R. Fed. 21.

First Amendment protection for publicly employed firefighters subjected to discharge, transfer, or discipline because of speech, 106 A.L.R. Fed. 396.

¹⁷ Abood v. Detroit Bd. of Ed., 431 U.S. 209, 97 S. Ct. 1782, 52 L.Ed.2d. 261, 95 L.R.R.M. (BNA) 2411, 81 Lab. Cas. (CCH) ¶ 55041 (1977), reh'g denied, 433 U.S. 915, 97 S. Ct. 2989, 53 L.Ed.2d. 1102 (1977); Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S. Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

¹⁸ LaRou v. Ridlon, 98 F.3d. 659 (1st Cir. 1996); Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S. Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

¹⁹ Vickery v. Jones, 100 F.3d. 1334 (7th Cir. 1996), cert. denied, 117 S. Ct. 1553, 137 L.Ed.2d. 701 (U.S. 1997).

Responsibilities of the position of director of a municipality's office of federal programs resembled those of a policymaker, privy to confidential information, a communicator, or some other office holder whose function was such that party affiliation was an equally important requirement for continued tenure. Ortiz-Pinero v. Rivera-Arroyo, 84 F.3d. 7 (1st Cir. 1996).

²⁰ McCloud v. Testa, 97 F.3d. 1536, 12 I.E.R. Cas. (BNA) 1833, 1996 FED App. 335P (6th Cir. 1996), reh'g and suggestion for reh'g en banc denied, (Feb. 13, 1997).

Law Reviews: Stokes, When Freedoms Conflict: Party Discipline and the First Amendment. 11 JL & Pol 751, Fall, 1995.

Pave, Public Employees and the First Amendment Petition Clause: Protecting the Rights of Citizen-Employees Who File Legitimate Grievances and Lawsuits Against Their Government Employers. 90 NW U LR 304, Fall, 1995.

Singer, Conduct and Belief: Public Employees' First Amendment Rights to Free Expression and Political Affiliation. 59 U Chi LR 897, Spring, 1992.

As to political patronage jobs, see § 472.

²¹ Parrish v. Nikolits, 86 F.3d. 1088 (11th Cir. 1996), cert. denied, 117 S. Ct. 1818, 137 L.Ed.2d. 1027 (U.S. 1997).

1 30.3. A “transient foreigner”

2 “*Transient foreigner*. One who visits the country, without the intention of remaining.”
3 [Black’s Law Dictionary, Sixth Edition, p. 1498]

4 30.4. A “nonresident alien” pursuant to 26 U.S.C. §7701(b)(1)(B). See:

5 *Nonresident Alien Position*, Form #05.020
6 <http://sedm.org/Forms/FormIndex.htm>

7 30.5. Not engaged in a “trade or business” pursuant to 26 U.S.C. §7701(a)(26).

8 30.6. A “foreign estate” pursuant to 26 U.S.C. §7701(a)(31).

9 30.7. Not an “individual”, which is an officer or employee of the government of official duty pursuant to 5 U.S.C. §552a(a)(2) and 26 CFR §1.1441-1(c)(3).

13 **Resources for Further Study and Rebuttal**

10 If you would like to study the subjects covered in this short pamphlet in further detail, may we recommend the following authoritative sources, and also welcome you to rebut any part of this pamphlet after your have read it and studied the subject carefully yourself just as we have:

- 13 1. Authorities on “return”: Sovereignty Forms and Instructions, Cites by Topic
<http://famguardian.org/TaxFreedom/CitesByTopic/return.htm>
- 14 2. Authorities on “assessment”:
<http://famguardian.org/TaxFreedom/CitesByTopic/assessment.htm>
- 15 3. Tax Deposition Questions, Form #03.016, Section 13: 26 U.S.C. §6020(b) Substitute For Returns. We the People Truth in Taxation Hearing evidence provided by a former IRS collection agent relating to Substitute For Return and Assessment Authority for I.R.C. Subtitle A income taxes
<http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Deposition.htm>
- 16 4. Substitute For Returns are Impossible: Pitman Buck
<http://famguardian.org/Subjects/Taxes/FalseRhetoric/SubstituteForReturn.htm>
- 17 5. IRS Office of Chief Counsel Notice CC-2007-005: Litigation Position for Returns Prepared for Section 6020(b), Exhibit #05.037: Explains the procedural requirements for the IRS to execute Substitute For Returns (SFRs).
<http://sedm.org/Exhibits/ExhibitIndex.htm>
- 18 6. Legal Requirement to File Federal Income Tax Returns, Form #05.009
<http://sedm.org/Forms/FormIndex.htm>
- 19 7. Reasonable Belief About Income Tax Liability, Form #05.007: Free memorandum of law
<http://sedm.org/Forms/FormIndex.htm>
- 20 8. Liberty University: Free educational materials for regaining your sovereignty as an entrepreneur or private person.
<http://sedm.org/LibertyU/LibertyU.htm>
- 21 9. Family Guardian Website, Taxation page: Free website.
<http://famguardian.org/Subjects/Taxes/taxes.htm>
- 22 10. Great IRS Hoax, Form #11.302 book: Free downloadable electronic book.
<http://sedm.org/Forms/FormIndex.htm>
- 23 11. Sovereignty Forms and Instructions Online, Form #10.004: Free references and tools to help those who want to escape federal slavery
<http://sedm.org/Forms/FormIndex.htm>
- 24 12. Who are “Taxpayers” and who needs a ‘Taxpayer Identification Number’, Form #05.013: Free downloadable pamphlet
<http://sedm.org/Forms/FormIndex.htm>
- 25 13. Rebutted version of the IRS pamphlet: “The Truth About Frivolous Tax Arguments”, Form #08.005: Free downloadable pamphlet
<http://sedm.org/Forms/FormIndex.htm>
- 26 14. Fed-State Reference Guide, IRS Pub 963: Free IRS publication that shows how the IRS and States share Information Return information
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub963.pdf>

14 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government

These questions are provided for readers, Grand Jurors, and Petit Jurors to present to the government or anyone else who would challenge the facts and law appearing in this pamphlet, most of whom work for the government or stand to gain financially from perpetuating the fraud. If you find yourself in receipt of this pamphlet, you are demanded to answer the questions within 10 days. Pursuant to [Federal Rule of Civil Procedure 8\(b\)\(6\)](#), failure to deny within 10 days constitutes an admission to each question. Pursuant to [26 U.S.C. §6065](#), all of your answers must be signed under penalty of perjury. We are not interested in agency policy, but only sources of reasonable belief identified in the pamphlet below:

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

Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully enforce federal law.

14.1 Who are “taxpayers”

1. Admit that the term “taxpayer” is defined as follows:

[26 U.S.C. §7701\(a\)\(14\)](#):

Taxpayer

The term "taxpayer" means any person subject to any internal revenue tax.

[26 U.S.C. §1313: Definitions](#)

(b) *Taxpayer*

Notwithstanding section 7701(a)(14), the term "taxpayer" means any person subject to a tax under the applicable revenue law.

YOUR ANSWER: Admit Deny

CLARIFICATION: _____

2. Admit that the term “nontaxpayer” describes a person not subject to the Internal Revenue Code and that the Internal Revenue Code does not define or confine the rights or duties of “nontaxpayers”:

"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)]

YOUR ANSWER: Admit Deny

CLARIFICATION: _____

3. Admit that the only provision within the I.R.C. that talks about “nontaxpayers”, which we define here as persons other than “taxpayers” as defined in 26 U.S.C. §7701(a)(14), is that found in 26 U.S.C. §7426, and in that provision, they are referred to in the title as “persons other than taxpayers”:

TITLE 26 > [Subtitle F](#) > [CHAPTER 76](#) > [Subchapter B](#) > § 7426

3 YOUR ANSWER: _____Admit _____Deny
4

5 CLARIFICATION:_____

6 **14.2 Convertibility between “nontaxpayer” and “taxpayer”**

- 7 1. Admit that the presumption of innocence until proven guilty with evidence is the foundation of the American System
8 of jurisprudence.

9 *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial
10 under our system of criminal justice. Long ago this Court stated:*

11 *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic
12 and elementary, and its enforcement lies at the foundation of the administration of our criminal law.
13 [Coffin v. United States, 156 U.S. 432, 453 (1895).]*

14 YOUR ANSWER: _____Admit _____Deny
15

16 CLARIFICATION:_____

- 17 2. Admit that the presumption of innocence until proven guilty, in the realm of taxation, translates into the presumption
18 that a person is a “nontaxpayer” until proven with evidence to be a “taxpayer”.

19 *“Keeping in mind the well-settled rule that the citizen is exempt from taxation unless the same is imposed by
20 clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be
21 resolved in favor of those upon whom the tax is sought to be laid.”*
22 *[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397 (1904)]*

23 YOUR ANSWER: _____Admit _____Deny
24

25 CLARIFICATION:_____

- 26 3. Admit that “presumptions” that a person is a “taxpayer” can injure their constitutional rights if they are domiciled in a
27 state of the Union and thereby have rights protected by the Constitution.

28 *“Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process*
29 *Clauses of the Fifth and Fourteenth Amendments.* In *Heiner v. Donnan*, 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed.
30 772 (1932), the Court was faced with a constitutional challenge to a federal statute that created a conclusive
31 presumption that gifts made within two years prior to the donor’s death were made in contemplation of death,
32 thus requiring payment by his estate of a higher tax. In holding that this irrefutable assumption was so arbitrary
33 and unreasonable as to deprive the taxpayer of his property without due process of law, the Court stated that it
34 had ‘held more than once that a statute creating a presumption which operates to deny a fair opportunity to
35 rebut it violates the due process clause of the Fourteenth Amendment.’ *Id.* at 329, 52 S.Ct., at 362. See, e.g.,
36 *Schlesinger v. Wisconsin*, 270 U.S. 230, 46 S.Ct. 260, 70 L.Ed. 557 (1926); *Hoeper v. Tax Comm’n*, 284 U.S.
37 206, 52 S.Ct. 120, 76 L.Ed. 248 (1931). See also *Tot v. United States*, 319 U.S. 463, 468-469, 63 S.Ct. 1241,
38 1245-1246, 87 L.Ed. 1519 (1943); *Leary v. United States*, 395 U.S. 6, 29-53, 89 S.Ct. 1532, 1544-1557, 23
39 L.Ed.2d. 57 (1969). Cf. *Turner v. United States*, 396 U.S. 398, 418-419, 90 S.Ct. 642, 653-654, 24 L.Ed.2d. 610
40 (1970).
41 *[Vlandis v. Kline, 412 U.S. 441 (1973)]*

42 YOUR ANSWER: _____Admit _____Deny
43

44 CLARIFICATION:_____

- 45 4. Admit that in the absence of unconstitutional “presumptions” about the status of a person as a “taxpayer”, or when the
46 target of a collection action states under penalty of perjury that they are a “nontaxpayer”, the burden of proof shifts to
47 the IRS or state revenue agency to prove the contrary WITH EVIDENCE and that until they prove the contrary, they
48 cannot apply any provision of the Internal Revenue Code without violating the rights of the target of the enforcement
49 action.

"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)]

YOUR ANSWER: Admit Deny

CLARIFICATION:

- 10 5. Admit that “presumptions” which prejudice constitutional rights are unconstitutional and give rise to a right to sue for
11 injury on the part of the victim of the presumption.

"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions." [219 U.S., at 239](#).

Thus the Court held that presumptions, while often valid (and some of which, I think, like the presumption of death based on long unexplained absence, may perhaps be even salutary in effect), must not be allowed to stand where they abridge or deny a specific constitutional guarantee.

[*United States v. Gainly, 380 U.S. 63 (1965)*]

YOUR ANSWER: _____ Admit _____ Deny

CLARIFICATION:

- 23 6. Admit that the Declaratory Judgments Act, [28 U.S.C. §2201](#)(a) precludes any federal court from ruling on rights or
24 status in the context of income taxes:

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.

YOUR ANSWER: Admit Deny

CLARIFICATION:

- ⁴⁴ 7. Admit that under the Declaratory Judgments Act, [28 U.S.C. §2201\(a\)](#), federal courts are precluded from changing a
⁴⁵ “nontaxpayer” into a “taxpayer” or a “nonresident alien” into either an alien or “U.S. citizen” without their consent.

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

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

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

YOUR ANSWER: Admit Deny

CLARIFICATION:

14.3 What is a “return”?

1. Admit that a “return” includes the following:

26 U.S.C. §6213(g): Restrictions Applicable to deficiencies; petition to Tax Court

(g) *Definitions*

For purposes of this section -

(1) Return

The term "return" includes any return, statement, schedule, or list, and any amendment or supplement thereto, filed with respect to any tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44.

TITLE 26 > **Subtitle F** > **CHAPTER 61** > **Subchapter B** > § 6103
§ 6103. Confidentiality and disclosure of returns and return information

(b) Definitions For purposes of this section—

(1) Return

The term "return" means any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of this title which is filed with the Secretary by, on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return so filed.

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION:

2. Admit that a "return" includes information returns filed under the authority of 26 U.S.C. §6041(a):

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

(a) Payments of \$600 or more

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

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION:

3. Admit that a "tax statement" filed under the authority of 26 U.S.C. §6011(a) satisfies the requirement for a "return":

3 (a) General rule

4 When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this
5 title, or with respect to the collection thereof, **shall make a return or statement according to the forms and**
6 **regulations prescribed by the Secretary.** Every person required to make a return or statement shall include
7 therein the information required by such forms or regulations.

8 YOUR ANSWER: Admit Deny

9 CLARIFICATION: _____

- 10 4. Admit that there are no forms or regulations or statutes that can prescribe a duty against a person who is not subject to
11 the Internal Revenue Code and who is a “nontaxpayer”:

12 “Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are without their scope. No
13 procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies
14 in due course of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the
15 subject nor of the object of federal revenue laws.”
16 [Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

17 YOUR ANSWER: Admit Deny

18 CLARIFICATION: _____

- 19 5. Admit that in order to be valid, a “return” must satisfy the following three elements:

- 20 5.1. It must be “subscribed”, meaning signed under penalty of perjury by the “taxpayer” pursuant to 26 U.S.C. §6065.
21 5.2. It must contain sufficient information from which to compute the “taxpayer’s” liability.
22 5.3. The return form and any attachments must purport to be a “return”.
23 Authorities for this conclusion are the following:

24 *Internal Revenue Manual*
25 *Section 35.2.2.11 (08-11-2004)*
26 *Answers in Failure to Pay (Section 6651(a)(2) Cases Where Substitute for Return Filed under Section 6020(b))*

27 *Section 6020(b)(1) authorizes the Secretary to make a return upon either a taxpayer's failure to file a return or*
28 *upon a taxpayer's filing of a fraudulent return. In two cases decided in 2003, the Tax Court clarified what*
29 *constitutes a return under section 6020(b) for purposes of the addition to tax under section 6651(a)(2). See*
30 *Cabirac v. Commissioner, 120 T.C. 163 (2003), and Spurlock v. Commissioner, T.C. Memo. 2003-124. In*
31 **Spurlock, the Tax Court held that a return for section 6020(b) purposes must be "subscribed, it must contain**
32 **sufficient information from which to compute the taxpayer's tax liability, and the return form and any**
33 **attachments must purport to be a 'return'.** "Spurlock, slip. op. at 27. In Cabirac, the documents the Service
34 *proffered as constituting a section 6020(b) return were (a) dummy Forms 1040 that identified the taxpayer, but*
35 *which were not signed and did not show any tax due, (b) a subsequently prepared 30-day letter, and (c) a*
36 *revenue agent's report attached to the 30-day letter explaining how the Service computed the taxpayer's*
37 *liability.*

38 *Applying the analysis later explained in Spurlock, the Tax Court held that these documents did not constitute a*
39 *section 6020(b) return. Critical to the Tax Court's analysis was that the Service never treated the documents,*
40 *which the Service created at various times, as one group purporting to be a return. See Millsap v.*
41 *Commissioner, 91 T.C. 926 (1988), acq. in result in part, 1991-2 C.B. 1, describing a valid section 6020(b)*
42 *return at issue therein.*

43 YOUR ANSWER: Admit Deny

44 CLARIFICATION: _____

- 45 6. Admit that according to the IRM, the criteria for determining whether a return is valid is as follows:

46 *Internal Revenue Manual*
47 *Section 25.6.5.5.1 (11-01-2004)*
48 *Valid Return*

- 1 1. A taxpayer is not considered to have filed a tax return (which begins the period of limitations on assessment)
2 until the taxpayer files a valid tax return. A valid return is described at IRM 25.6.2.4.14. In general, a tax
3 return is considered sufficient for establishing a statute of limitations period if it meets the following criteria:
4 A. It has data sufficient available to calculate a tax liability,
5 B. It purports to be a return,
6 C. It is an honest and reasonable attempt to satisfy the requirements of the tax law, and
7 D. It is signed under penalties of perjury.

8 Note:

9 #While there is no question that an unsigned return is an invalid return; the Service has found it
10 necessary to process unsigned balance due returns since 1970 in order for the Service to handle the
11 volume of unsigned payment returns received annually. This business decision is reflected in P-2-11
12 (Approved 10-02-1970), IRM 1.2.1.3.6.#

- 13 2. A return filed on the wrong form may be a valid return for the purpose of starting the period of limitations if
14 it provides sufficient date to calculate a tax liability.

15 A. Federal Insurance Contributions Act (FICA) form instead of Railroad Retirement Tax Act (RRTA) form. A
16 FICA return did not start the period on an employer's RRTA tax liability because the FICA return did not
17 include all the information necessary to compute the RRTA tax. See *Atlantic Land & Improv. Co. v. United*
18 *States*, 790 F.2d. 853, 860 (11th Cir. 1986).

19 B. RRTA form instead of FICA form. It appears that a RRTA return filed for a FICA tax liability might be
20 sufficient to start the period on that liability. See the suggestion in *Atlantic Land & Improv. Co.*, 790 F.2d. 860
21 at footnote 12.

22 [SOURCE: <http://www.irs.gov/irm/part25/ch06s05.html>]

23 YOUR ANSWER: _____Admit _____Deny

24 CLARIFICATION:_____

- 26 7. Admit that for the purposes of the previous question, NO LIABILITY is a type of liability and a return that indicates no
27 liability is a valid return.

29 YOUR ANSWER: _____Admit _____Deny

31 CLARIFICATION:_____

32 **14.4 Assessment Authority**

- 33 1. Admit that 26 U.S.C. §6020(a) describes the authority of the Secretary to prepare returns.

34 Subtitle F - Procedure and Administration
35 CHAPTER 61 - INFORMATION AND RETURNS
36 Subchapter A - Returns and Records
37 PART II - TAX RETURNS OR STATEMENTS
38 Subpart D - Miscellaneous Provisions
39 [§6020 Returns prepared for or executed by Secretary](#)

40 (a) *Preparation of return by Secretary*

41 If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but
42 shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the
43 Secretary may prepare such return, which, being-signed by such person, may be received by the Secretary as
44 the return of such person.

46 YOUR ANSWER: _____Admit _____Deny

48 CLARIFICATION:_____

- 49 2. Admit that the return described in 26 U.S.C. §6020(a) is authorized by 26 U.S.C. §6014.

3 (a) Election by taxpayer

4 An individual who does not itemize his deductions and who is not described in section [6012 \(a\)\(1\)\(C\)\(i\)](#), whose
5 gross income is less than \$10,000 and includes no income other than remuneration for services performed by
6 him as an employee, dividends or interest, and whose gross income other than wages, as defined in section
7 [3401 \(a\)](#), does not exceed \$100, shall at his election not be required to show on the return the tax imposed by
8 section [1](#). Such election shall be made by using the form prescribed for purposes of this section. In such case the
9 tax shall be computed by the Secretary who shall mail to the taxpayer a notice stating the amount determined as
10 payable.

11 YOUR ANSWER: _____Admit _____Deny

12 CLARIFICATION:_____

- 13 3. Admit that 26 CFR §301.6201-1 describes the authority to execute involuntary assessments of taxes owed pursuant to
14 26 U.S.C. §6020(b).

15 [Code of Federal Regulations]
16 [Title 26, Volume 17]
17 [Revised as of April 1, 2001]
18 From the U.S. Government Printing Office via GPO Access
19 [CITE: 26CFR301.6201-1]
20 [Sec. 301.6201-1 Assessment authority.](#)

21 (a) IN GENERAL.

22 The district director is authorized and required to make all inquiries necessary to the determination and
23 assessment of all taxes imposed by the Internal Revenue Code of 1954 or any prior internal revenue law. The
24 district director is further authorized and required, and the director of the regional service center is authorized,
25 to make the determinations and the assessments of such taxes. However, certain inquiries and determinations
26 are, by direction of the Commissioner, made by other officials, such as assistant regional commissioners. The
27 term "taxes" includes interest, additional amounts, additions to the taxes, and assessable penalties. The
28 authority of the district director and the director of the regional service center to make assessments includes the
29 following:

30 **(1) TAXES SHOWN ON RETURN. The district director or the director of the regional service center shall
31 assess all taxes determined by the taxpayer or by the district director or the director of the regional service
32 center and disclosed on a return or list.**

33 (2) UNPAID TAXES PAYABLE BY STAMP.

34 (i) If without the use of the proper stamp:

35 (a) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for
36 sale or use by the manufacturer thereof, or

37 (b) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs; The
38 district director, upon such information as he can obtain, must estimate the amount of the tax which
39 has not been paid and the district director or the director of the regional service center must make
40 assessment therefor upon the person the district director determines to be liable for the tax.
41 However, the district director or the director of the regional service center may not assess any tax
42 which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner
43 provided by law or regulations.

44 (ii) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is
45 not paid upon presentment, then the district director or the director of the regional service center shall
46 assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the
47 check or money order was received by the district director.

48 ...

49 YOUR ANSWER: _____Admit _____Deny

1
2 CLARIFICATION: _____

- 3 4. Admit that 26 CFR §301.6201-1 only reflect taxes shown on a return signed by the “taxpayer”.

4
5 YOUR ANSWER: ____Admit ____Deny

6 CLARIFICATION: _____

- 7 8 5. Admit that no provision of law authorizes a revenue agent to sign a tax return on behalf of a “taxpayer” without the
9 “taxpayers” consent, such as in 26 U.S.C. §6014.

10 11 YOUR ANSWER: ____Admit ____Deny

12 CLARIFICATION: _____

- 13 14 6. Admit that there is no regulation under Part 1 of Title 26 of the Code of Federal Regulations that authorizes 26 U.S.C.
15 §6020(b) assessments in the case of the taxes imposed in 26 U.S.C. §1.

16 17 YOUR ANSWER: ____Admit ____Deny

18 19 CLARIFICATION: _____

- 20 7. Admit that the submission of a “return” as legally defined constitutes consent to an “assessment”.

21 22 *This is because the return is a consent to assessment of tax in our tax system. See 26 U.S.C. §6201(a)(1) and
23 26 CFR §1.6201-1(a)(1), Income Tax Regs.”
[Millsap v. Commissioner, 91 T.C. 926 (1988)]*

24 25 YOUR ANSWER: ____Admit ____Deny

26 27 CLARIFICATION: _____

- 28 29 8. Admit that no one at the IRS has delegated authority to consent on our behalf to an assessment and that ONLY we can
do that to ourselves.

30 31 *“Our tax system is based on individual self-assessment and voluntary compliance”.
[Mortimer Caplin, Internal Revenue Audit Manual (1975)]*

32 33 *“Our tax system is based upon voluntary assessment and payment, not upon restraint”.
[Flora v. United States, 362 U.S. 145 (1960)]*

34 35 *“Let me point this out now. Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent
36 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
37 Ways and Means subcommittee in 1953]*

38 39 YOUR ANSWER: ____Admit ____Deny

40 41 CLARIFICATION: _____

42 43 **14.5 Requirement for consent**

- 44 45 1. Admit that the Constitution forbids Congress to pass any law or statute that might impair or undermine the Constitution
46 or the Constitutional rights of anyone.

1 "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it
2 creates no office; it is in legal contemplation, as inoperative as though it had never been passed."
3 [Norton v. Shelby County, [118 U.S. 425](#) (1885)]
4

5 "No higher duty, or more solemn responsibility, rest upon this Court than that of translating into living law and
6 maintaining this Constitutional shield deliberately planned and inscribed for the benefit of every human being
7 subject to our Constitution-of whatever race, creed of persuasion."
8 [Chambers v. Florida, [309 U.S. 227](#) (1938)]
9

10 "And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom
11 under our system all political power and sovereignty primarily resides, and through whom such power and
12 sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial
13 agencies which it created exercise such political authority as they have been permitted to possess. The
14 Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible.
15 'We the People of the United States,' it says, 'do ordain and establish this Constitution.' Ordain and establish!
16 These are definite words of enactment, and without more would stamp what follows with the dignity and
17 character of law. The framers of the Constitution, however, were not content to let the matter rest here, but
18 provided explicitly-'This Constitution, and the Laws of the United States which shall be made in Pursuance
19 thereof; ... shall be the supreme Law of the Land.' (Const. art. 6, cl. 2.) The supremacy of the Constitution as
20 law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by
21 Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a
22 judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of
23 the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for
24 adjudication, must apply the supreme law and reject the inferior stat- [298 U.S. 238, 297] ute whenever the
25 two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid
26 must be given great weight, Adkins v. Children's Hospital, [261 U.S. 525, 544](#), 43 S.Ct. 394, 24 A.L.R. 1238; but
27 their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly
28 irrelevant to the inquiry. Schechter Poultry Corp. v. United States, [295 U.S. 495, 549](#), 550 S., 55 S.Ct. 837, 97
29 A.L.R. 947."
30 [Carter v. Carter Coal Co., [298 U.S. 238](#) (1936)]

31 YOUR ANSWER: Admit Deny
32

33 CLARIFICATION: _____

- 34 2. Admit that a person who has Constitutional rights cannot be the proper subject of the I.R.C. or the Declaratory
35 Judgments Act, [28 U.S.C. §2201](#)(a), because both of these could adversely affect the rights of a person with
36 Constitutional rights if applied against a person domiciled in a state of the Union on other than federal territory:

37 "The power to tax involves the power to destroy; the power to destroy may defeat and render useless the
38 power to create; and there is a plain repugnance in conferring on one government a power to control the
39 constitutional measures of another, which other, with respect to those very measures, is declared to be
40 supreme over that which exerts the control. The states have no power, by taxation [[117 U.S. 151, 156](#)]
41 or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws
42 enacted by congress to carry into execution the powers vested in the general government'
43 [Van Brocklin v. State of Tennessee, [117 U.S. 151](#) (1886)].
44

45 "The great principle is this: because the constitution will not permit a state to destroy, it will not permit a law
46 involving the power to destroy."
47 [/Providence Bank v. Billings, [29 U.S. 514](#) (1830)]

48 YOUR ANSWER: Admit Deny
49

50 CLARIFICATION: _____

- 51 3. Admit that based on the above, since the Constitution forbids the state the power to destroy and the power to tax is the
52 power to destroy, it necessarily follows that all taxation must be consensual and requires the consent of the person to
53 become a "taxpayer" at some point. Note that we are NOT suggesting that "taxes" are voluntary for "taxpayers", but
54 rather that the decision to BECOME a "taxpayer" is voluntary.

55 YOUR ANSWER: Admit Deny
56

1 CLARIFICATION: _____

- 2 4. Admit that the Declaration of Independence declares that all just powers of government are based on “the consent of
3 the governed”.

4 *Declaration of Independence:* “We hold these truths to be self-evident, that **all men are created equal**, that
5 they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the
6 pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just
7 powers from the consent of the governed,”
8 [See: http://www.archives.gov/national_archives_experience/charters/declaration_transcript.html]

9 YOUR ANSWER: ____Admit ____Deny

10
11 CLARIFICATION: _____

- 12 5. Admit that all powers of government which a government exercises that are not based on the consent of the governed
13 are unjust, by implication.

14 YOUR ANSWER: ____Admit ____Deny

15
16 CLARIFICATION: _____

- 17 6. Admit that taxation that is not based on consent of the person to BECOME a “taxpayer” in some form is therefore
18 unjust.

19 YOUR ANSWER: ____Admit ____Deny

20
21 CLARIFICATION: _____

- 22 7. Admit that consent to become a “taxpayer” was never given by the person who sent you this memorandum, and that
23 you have no evidence of consent.

24 YOUR ANSWER: ____Admit ____Deny

25
26 CLARIFICATION: _____

- 27 8. Admit that the origin of the power to impose an income tax originates from one’s domicile:

28 *“Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in
29 transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the
30 Fourteenth Amendment makes one a citizen of the state wherein he resides, the fact of residence creates
31 universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter
32 obviously includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course,
33 the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most
34 obvious illustration being a tax on realty laid by the state in which the realty is located.”
35 [Miller Brothers Co. v. Maryland, [347 U.S. 340](#) (1954)]*

36 YOUR ANSWER: ____Admit ____Deny

37
38 CLARIFICATION: _____

- 39 9. Admit that one’s choice of domicile results in nominating or electing a government or “state” to protect the “citizen” or
40 “resident” so domiciled and that implicit in that nomination is our consent to be bound by the civil laws that provide
41 the protection.

42 *“Taxation and protection reciprocal.. It has been said already that the taxing power of a state is co-extensive
43 with its sovereignty, and that whatever objects of government are within its reach are subject to it and may be
44 made the basis of levies. It is commonly said that taxation and protection are reciprocal; and this, if rightly
45 understood, is correct, though some subjects receive the protection of government which are not taxable, and
46 some may be taxed though not protected.”
47 [A Treatise on the Law of Taxation, Second Edition; Thomas M. Cooley, 1886, p. 19;*

1 SOURCE: <http://books.google.com/books?id=N-c9AAAAIAAJ&printsec=titlepage>

2 *The citizen cannot complain [about the laws or the tax system], because he has voluntarily submitted*
3 *himself to such a form of government.* He owes allegiance to the two departments, so to speak, and within
4 their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can
5 demand protection from each within its own jurisdiction.”
6 [United States v. Cruikshank, [92 U.S. 542](#) (1875) (emphasis added)]

7 YOUR ANSWER: ____Admit ____Deny

8 CLARIFICATION:_____

- 10 10. Admit that the ability to “volunteer”, as the U.S. Supreme Court said in the previous question, implies the ability to
11 Unvolunteer by changing our domicile to another place.

12 YOUR ANSWER: ____Admit ____Deny

13 CLARIFICATION:_____

- 15 11. Admit that it is perfectly lawful to choose a domicile in a place that has no organized man-made government.

16 YOUR ANSWER: ____Admit ____Deny

17 CLARIFICATION:_____

- 19 12. Admit that choosing a domicile must be voluntary, and that persons who cannot give their consent because minors or
20 incompetents, cannot choose a domicile of their own.

21 *“Similarly, when a person is prevented from leaving his domicile by circumstances not of his doing and*
22 *beyond his control, he may be relieved of the consequences attendant on domicile at that place.* In Roboz
23 (USDC D.C. 1963) [Roboz v. Kennedy, 219 F.Supp. 892 (D.D.C. 1963), p. 24], a federal statute was involved
24 which precluded the return of an alien's property if he was found to be domiciled in Hungary prior to a certain
25 date. It was found that Hungary was Nazi-controlled at the time in question and that the persons involved
26 would have left Hungary (and lost domicile there) had they been able to. Since they had been precluded from
27 leaving because of the political privations imposed by the very government they wanted to escape (the father
28 was in prison there), the court would not hold them to have lost their property based on a domicile that
29 circumstances beyond their control forced them to retain.”
30 [Conflicts in a Nutshell, David D. Siegel and Patrick J. Borchers, West Publishing, p. 24]

31 YOUR ANSWER: ____Admit ____Deny

32 CLARIFICATION:_____

- 34 13. Admit that because domicile is a voluntary choice that only we can make for ourselves, then all consequences arising
35 from it, including income taxes, must also be voluntary.

36 YOUR ANSWER: ____Admit ____Deny

37 CLARIFICATION:_____

39 **14.6 Jurisdiction to Tax**

- 40 1. Admit that all income taxes under I.R.C. Subtitle A presume a domicile in the “United States”.

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

43 (d) *Definitions and special rules*

44 *For purposes of this section—*

(3) Tax home

The term "tax home" means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

YOUR ANSWER: Admit Deny

CLARIFICATION: _____

2. Admit that the “United States” referenced in the previous question consists ONLY of federal territory and excludes the states of the Union mentioned in the United States Constitution.

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

(a)(9) United States

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

(a)(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.

YOUR ANSWER: Admit Deny

CLARIFICATION: _____

3. Admit that IRS Form 1040 is for use only by citizens and residents of the United States:

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

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

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

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION: _____

4. Admit that one cannot be a “citizen” or a “resident” under the Internal Revenue Code without being domiciled on federal “territory” that is not part of any state of the Union.

86 C.J.S. [Corpus, Juris, Secundum, Legal Encyclopedia], Territories, Section 1

"§1. Definitions, Nature, and Distinctions

"The word 'territory,' when used to designate a political organization has a distinctive, fixed, and legal meaning under the political institutions of the United States, and does not necessarily include all the territorial possessions of the United States, but may include only the portions thereof which are organized and exercise governmental functions under act of congress."

1 "While the term 'territory' is often loosely used, and has even been construed to include municipal subdivisions
2 of a territory, and 'territories of the' United States is sometimes used to refer to the entire domain over which
3 the United States exercises dominion, the word 'territory,' when used to designate a political organization, has
4 a distinctive, fixed, and legal meaning under the political institutions of the United States, and the term
5 'territory' or 'territories' does not necessarily include only a portion or the portions thereof which are organized
6 and exercise government functions under acts of congress. The term 'territories' has been defined to be
7 political subdivisions of the outlying dominion of the United States, and in this sense the term 'territory' is not a
8 description of a definite area of land but of a political unit governing and being governed as such. The question
9 whether a particular subdivision or entity is a territory is not determined by the particular form of government
10 with which it is, more or less temporarily, invested.

11 "**Territories'** or '**territory**' as including '**state**' or '**states**.' While the term '**territories of the**' United States
12 may, under certain circumstances, include the states of the Union, as used in the federal Constitution and in
13 ordinary acts of congress "**territory**" does not include a foreign state.

14 "As used in this title, the term '**territories**' generally refers to the political subdivisions created by congress,
15 and not within the boundaries of any of the several states."

16 YOUR ANSWER: ____Admit ____Deny

17 CLARIFICATION: _____

- 19 5. Admit that there is no statute other than 26 U.S.C. §911 which imposes an income tax upon a "citizen or resident of the
20 United States".

21 YOUR ANSWER: ____Admit ____Deny

22 CLARIFICATION: _____

- 24 6. Admit that 26 U.S.C. §911 relates only to "citizens and residents of the United States" abroad.

25 YOUR ANSWER: ____Admit ____Deny

26 CLARIFICATION: _____

- 28 7. Admit that because there is no statute that imposes an income tax upon citizens and residents of the United States who
29 are NOT abroad, or who are situated "domestically", meaning within the "United States".

30 YOUR ANSWER: ____Admit ____Deny

31 CLARIFICATION: _____

33 14.7 Lawful targets of Substitute For Returns

- 34 1. Admit that 26 U.S.C. §6020(b) is the authority for doing involuntary assessments.

35 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 61](#) > [Subchapter A](#) > [PART II](#) > [Subpart D](#) > § 6020
36 [§ 6020. Returns prepared for or executed by Secretary](#)

37 *(b) Execution of return by Secretary*

38 *(I) Authority of Secretary to execute return*

39 If any person fails to make any return required by any internal revenue law or regulation made thereunder at
40 the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall
41 make such return from his own knowledge and from such information as he can obtain through testimony or
42 otherwise.

43 YOUR ANSWER: ____Admit ____Deny

44 CLARIFICATION: _____

- 1 2. Admit that the Internal Revenue Manual does not authorize Substitute For Returns using IRS Form 1040.

2 *Internal Revenue Manual*

3 [5.1.11.6.8 \(05-27-1999\)](#)

4 *IRC 6020(b) Authority*

5 1. *The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):*

- A. *Form 940, Employer's Annual Federal Unemployment Tax Return*
- B. *Form 941, Employer's Quarterly Federal Tax Return*
- C. *Form 943, Employer's Annual Tax Return for Agricultural Employees*
- D. *Form 720, Quarterly Federal Excise Tax Return*
- E. *Form 2290, Heavy Vehicle Use Tax Return*
- F. *Form CT-1, Employer's Annual Railroad Retirement Tax Return*
- G. *Form 1065, U.S. Return of Partnership Income.*

6 2. *Pursuant to IRM 1.2.2.97, Delegations of Authority, Order Number 182 (rev. 7), dated 5/5/1997, revenue*
7 *officers GS-09 and above, and Collection Support Function managers GS-09 and above, have the authority to*
8 *prepare and execute returns under IRC 6020(b).*

18 YOUR ANSWER: _____Admit _____Deny

19 CLARIFICATION:_____

- 21 3. Admit that under the rules of statutory construction, the expression of one thing automatically implies the exclusion of
22 all others, and that there is nothing elsewhere in the IRM that would add IRS Form 1040 or 1040NR to the above list.

23 *"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one*
24 *thing is the exclusion of another.* Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles,
25 *170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. When certain persons*
26 *or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be*
27 *inferred.* Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
28 *of a certain provision, other exceptions or effects are excluded."*

29 [Black's Law Dictionary, Sixth Edition, p. 581]

30 YOUR ANSWER: _____Admit _____Deny

31 CLARIFICATION:_____

- 33 4. Admit that the U.S. Supreme Court said that in cases where the rights of an individual may be adversely affected,
34 federal agencies must adhere to internal procedure manuals, even when their requirements may be more rigorous than
35 the law requires.

36 *"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.*
37 *This is so even where the internal procedures are possibly more rigorous than otherwise would be required.*

38 *Service v. Dulles, 354 U.S. 363, 388 (1957); Vitarelli v. Seaton, 359 U.S. 535, 539 -540 (1959). The BIA, by its*
39 *Manual, has declared that all directives that "inform the public of privileges and benefits available" and of*
40 *"eligibility requirements" are among those to be published. The requirement that, in order to receive general*
41 *assistance, an Indian must reside directly "on" a reservation is clearly an important substantive policy that fits*
42 *within this class of directives. Before the BIA may extinguish the entitlement of these otherwise eligible*
43 *beneficiaries, it must comply, at a minimum, with its own internal procedures."*

44 [Morton v. Ruiz, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974)]

45 YOUR ANSWER: _____Admit _____Deny

46 CLARIFICATION:_____

- 48 5. Admit that based on the above, the only parties against whom the IRS can institute Substitute For Returns are parties
49 that have no constitutional rights, which includes people domiciled in a federal territory or possession or federal
50 employees, agents, or contractors but excludes people domiciled in a state of the Union who are protected by the
51 United States Constitution.

52 *"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and*
53 *uniform to the effect [182 U.S. 244, 279] that the Constitution is applicable to territories acquired by purchase*
54 *or conquest, only when and so far as Congress shall so direct.* Notwithstanding its duty to 'guarantee to every

1 state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the
2 definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is
3 exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the
4 territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan,
5 Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing
6 a much greater analogy to a British Crown colony than a republican state of America, and to vest the
7 legislative power either in a governor and council, or a governor and judges, to be appointed by the President.
8 It was not until they had attained a certain population that power was given them to organize a legislature by
9 vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi,
10 Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to
11 declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of
12 the writ of habeas corpus, as well as other privileges of the bill of rights."
13 [Downes v. Bidwell, [182 U.S. 244](#) (1901)]

14 YOUR ANSWER: Admit Deny

15 CLARIFICATION: _____

- 16 6. Admit that the U.S. Supreme Court said of the rights of natural persons who have not contracted away their
17 Constitutional rights through federal employment, agency, franchises, or contracts:

18 "There is a clear distinction in this particular case between an individual and a corporation, and that the latter
19 has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual
20 may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own
21 way. His power to contract is unlimited. He owes no such duty to the State, since he receives nothing
22 therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land
23 long antecedent to the organization of the State, and can only be taken from him by due process of law, and in
24 accordance with the constitution. Among his rights are a refusal to incriminate himself, and the immunity of
25 himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the
26 public so long as he does not trespass upon their rights."
27 [Hale v. Henkel, 201 U.S. 43, 74 (1906)]

28 YOUR ANSWER: Admit Deny

29 CLARIFICATION: _____

- 30 7. Please provide answers to the questions appearing at the web link below:

31 <http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2013.htm>

32 **Affirmation:**

33 I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing
34 questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these
35 answers are completely consistent with each other and with my understanding of both the Constitution of the United States,
36 Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not
37 necessarily lower federal courts.

38 41 Name (print): _____

39 42 Signature: _____

40 43 Date: _____

41 44 Witness name (print): _____

42 45 Witness Signature: _____

43 46 Witness Date: _____