WHY YOUR GOVERNMENT IS EITHER A THIEF OR YOU ARE A "PUBLIC OFFICER" FOR INCOME TAX PURPOSES

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1 Introduction

Many Americans and even federal and state judges falsely believe that the federal income tax applies to everyone domiciled in states of the Union. They falsely believe that what they pay to the IRS every year is a Constitutional, non-apportioned direct tax upon their wages which was explicitly authorized by the Sixteenth Amendment. This short, concise Memorandum of Law will examine each of the major elements that comprise this mistaken belief and will show using admissible, non-presumptive legal evidence that these beliefs are simply false and unsupportable by any evidence. The evidence presented will be consistent with our memorandum of law below:

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

We will show that all "taxpayers" within I.R.C. Subtitle A are in fact officers, employees, or instrumentalities of the government and NOT private companies or private persons. All of these entities, in fact, are recognized within the Internal Revenue Code as the ONLY authorized audience for enforcement by the Internal Revenue Code in 26 U.S.C. §6331(a) :

> *TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331*
> *§ 6331. Levy and distraint*
>
> *(a) Authority of Secretary*
>
> *If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.* ***Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.*** *If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

There is nothing anywhere within the I.R.C. that can or does add to the above enforcement provisions, and the rules of statutory construction FORBID adding anything not expressly spelled out:

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

Why is this subject important? Because:

1. The Internal Revenue Code never expressly defines all that is included within the meaning of "taxpayer".
2. The courts themselves say you can't trust any IRS publication or statement, anything a government employee tells you, or anything the legal or tax profession tells you and may ONLY rely on what the law actually says. No one reads the law anymore such that they would know who the real "taxpayers" are. See:

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

3. Those who think they are "taxpayers" and who in fact are not are violating the following criminal laws. Anyone who wants to obey the law ought to be concerned with wanting to learn what the law requires of them as documented in this memorandum:
   3.1. Impersonating a "public officer" in criminal violation of 18 U.S.C. §912.
   3.2. Bribing public officials with money the law does not authorize them to pay to the government in criminal violation of 18 U.S.C. §201.

Within this memorandum, we will confine ourselves exclusively to Subtitles A and C of the Internal Revenue Code, which addresses income and withholding taxes on "individuals", corporations, trusts, and estates. We will not address other types of taxes, such as those lawful taxes described by Subtitle B (Estate taxes) or Subtitle D (Excise taxes) of the I.R.C. We will close this pamphlet with a series of admissions for readers who are still unconvinced by the content of the pamphlet. The purpose of these admissions will be to offer the reader an opportunity to refute the overwhelming evidence supporting everything in this pamphlet.

If, after reading this pamphlet, you decide that you want to terminate your "employment agreement" with the federal government under the Social Security program and destroy all evidence of the existence of it, you may do so using the following resources:

1. Demand for Verified Evidence of "Trade or Business" Activity: Information Return, Form #04.007- Present this to private employers to educate them about why they can't file information returns, including W-2, 1042-S, 1098, and 1099 against a person who does not consent to engage in the voluntary excise taxable, privileged "trade or business" activity because they don't want to act as a "public official" and "trustee" of the "public trust".
   http://sedm.org/Forms/FormIndex.htm
2. Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report, Form #04.008- Present this to financial institutions when they attempt to illegally connect you with a "trade or business" in the process of withdrawing $10,000 or more from a bank account.
   http://sedm.org/Forms/FormIndex.htm
3. Correcting Erroneous Information Returns, Form #04.001- Allows you to correct a false IRS Form W-2 that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
   http://sedm.org/Forms/FormIndex.htm
4. Correcting Erroneous IRS Form 1042's, Form #04.003- Allows you to correct a false IRS Form 1098's that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
   http://sedm.org/Forms/FormIndex.htm
5. Correcting Erroneous IRS Form 1098's, Form #04.004- Allows you to correct a false IRS Form 1098's that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public officer".
   http://sedm.org/Forms/FormIndex.htm
6. Correcting Erroneous IRS Form 1099's, Form #04.005- Allows you to correct a false IRS Form 1099's that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
   http://sedm.org/Forms/FormIndex.htm
7. Correcting Erroneous IRS Form W-2's, Form #04.006- Allows you to correct a false IRS Form W-2 that connects you to a "trade or business", which is a privileged federal contractor activity that makes you into a "public official".
   http://sedm.org/Forms/FormIndex.htm
8. About IRS Form W-8BEN, Form #04.202- Use this article to prepare an IRS Form W-8BEN that will allow you to open bank accounts without an SSN, stop employment withholding without an SSN and without becoming a federal "employee". Anyone who does not provide this form is presumed to be a "U.S. person" defined in 26 U.S.C. §7701(a)(30). All statutory "U.S. persons" maintain a legal "domicile" or "residence" in the statutory "United States**" (federal zone) under 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(c) and Federal Rule of Civil Procedure 17(b).
   http://sedm.org/Forms/FormIndex.htm
9. Affidavit of Corporate Denial, Form #02.004- Attach this to all correspondence you have with the IRS, Social Security Administration, or any other part of the federal government. Develops exculpatory evidence in your administrative record so that the agency cannot continue to ignore or violate your rights any longer.
   http://sedm.org/Forms/FormIndex.htm
10. Resignation of Compelled Social Security Trustee, Form #06.002- Send to the IRS and the SSA to quit the Social Security Program and get all your money back. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as "federal personnel".
    http://sedm.org/Forms/FormIndex.htm

11. Sovereignty Forms and Instructions, Instructions, Step 4.20: Terminate Social Security Benefits and Your Social Security Number- Allows you to quit social security. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as "federal personnel".
http://famguardian.org/TaxFreedom/Instructions/4.20TermSS.htm
12. SSA Form 521: Withdrawal of Social Security Application- Withdraws an application to receive Social Security benefits.
http://sedm.org/Forms/AvoidingFranch/ssa_521.pdf
13. IRS Form 4029: Application for Exemption from Social Security Taxes and Waiver of Benefits- Allows you to quit social security. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as "federal personnel".
http://famguardian.org/TaxFreedom/Forms/IRS/IRSForm4029.pdf
14. 20 CFR §416.1333- Social Security regulation authorizing leaving the Social Security system.
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div8&view=text&node=20:2.0.1.1.9.13.433.13&idno=20

2 The Ability to Regulate Private Rights and Private Conduct is Repugnant to the Constitution

The following cite establishes that private rights and private property are entirely beyond the control of the government:

> *When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. **"A body politic," as aptly defined in the preamble of the Constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusively private, Thorpe v. R. & B. Railroad Co., 27 Vt. 143; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and 125*125 has found expression in the maxim sic utere tuo ut alienum non lædas. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in the License Cases, 5 How. 583, "are nothing more or less than the powers of government inherent in every sovereignty, . . . that is to say, . . . the power to govern men and things."** Under these powers the government regulates the conduct of its citizens one towards another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good. In their exercise it has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, &c., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold. To this day, statutes are to be found in many of the States upon some or all these subjects; and we think it has never yet been successfully contended that such legislation came within any of the constitutional prohibitions against interference with private property. With the Fifth Amendment in force, Congress, in 1820, conferred power upon the city of Washington "to regulate . . . the rates of wharfage at private wharves, . . . the sweeping of chimneys, and to fix the rates of fees therefor, . . . and the weight and quality of bread," 3 Stat. 587, sect. 7; and, in 1848, "to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commission of auctioneers," 9 id. 224, sect. 2.*
> *[Munn. v. Illinois, 94 U.S. 113 (1876),*
> *SOURCE: http://scholar.google.com/scholar_case?case=6419197193322400931]*

Notice that they say that the ONLY basis to regulate private rights is to prevent injury of one man to another by the use of said property. They say that this authority is the origin of the "police powers" of the state. What they hide, however, is that these same POLICE POWERS involve the CRIMINAL laws and EXCLUDE the CIVIL laws or even franchises. You can TELL they are trying to hide something because around this subject they invoke the latin language that is unknown to most Americans to conceal the nature of what they are doing. Whenever anyone invokes latin in a legal setting, a red flag ought to go up because you KNOW they are trying to hide a KEY fact. Here is the latin they invoked:

> *"sic utere tuo ut alienum non lædas"*

The other phrase to notice in the Munn case above is the use of the word "social compact". A compact is legally defined as a contract.

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

[Black's Law Dictionary, Sixth Edition, p. 281]

Therefore, one cannot exercise their First Amendment right to legally associate with or contract with a SOCIETY and thereby become a party to the "social compact/contract" without ALSO becoming a STATUTORY "citizen". By statutory citizen, we really mean a domiciliary of a SPECIFIC municipal jurisdiction, and not someone who was born or naturalized in that place. Hence, by STATUTORY citizen we mean a person who:

1. Has voluntarily chosen a civil domicile within a specific municipal jurisdiction and thereby become a "citizen" or "resident" of said jurisdiction. "citizens" or "residents" collectively are called "inhabitants".
2. Has indicated their choice of domicile on government forms in the block called "residence" or "permanent address".
3. CONSENTS to be protected by the regional civil laws of a SPECIFIC municipal government.

A CONSTITUTIONAL citizen, on the other hand, is someone who cannot consent to or choose the place of their birth. That is why birth or naturalization determines nationality but not their status under the civil laws. All civil jurisdiction is based on "consent of the governed", as the Declaration of Independence indicates. Those who do NOT consent to the civil laws that implement the social compact of the municipal government they are situated within are called "free inhabitants", "nonresidents", "transient foreigners", "non-citizen nationals", or "foreign sovereigns". These people instead are governed by the common law RATHER than the civil law.

Police men are NOT allowed to involve themselves in CIVIL disputes and may ONLY intervene or arrest anyone when a CRIME has been committed. They CANNOT arrest for an "infraction", which is a word designed to hide the fact that the statute being enforced is a CIVIL or FRANCHISE statute not involving the CRIMINAL "police powers". Hence, civil jurisdiction over PRIVATE rights is NOT authorized among those who HAVE such rights. Only those who know those rights and claim and enforce them, not through attorneys but in their proper person, have such rights. Nor can those PRIVATE rights lawfully be surrendered to a REAL, de jure government, even WITH consent, if they are, in fact UNALIENABLE as the Declaration of Independence indicates.

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

The only people who can consent to give away a right are those who HAVE no rights because domiciled on federal territory not protected by the Constitution or the Bill of Rights:

> *"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform to the effect [182 U.S. 244, 279] that **the Constitution is applicable to territories acquired by purchase or conquest, only when and so far as Congress shall so direct. Notwithstanding its duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan, Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing a much greater analogy to a British Crown colony than a republican state of America**, and to vest the legislative power either in a governor and council, or a governor and judges, to be appointed by the President. It was not until they had attained a certain population that power was given them to organize a legislature by vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights."*
> *[Downes v. Bidwell, 182 U.S. 244 (1901)]*

To apply these concepts, the police enforce the "vehicle code", but most of the vehicle code is a civil franchise that they may NOT enforce without ABUSING the police powers of the state. In recognition of these concepts, the civil provisions of the vehicle code are called "infractions" rather than "crimes". AND, before the civil provisions of the vehicle code may lawfully be enforced against those using the public roadways, one must be a "resident" with a domicile not within the state, but on federal territory where rights don't exist. All civil law attaches to SPECIFIC territory. That is why by applying for a driver's license, most state vehicle codes require that the person must be a "resident" of the state, meaning a person with a domicile within the statutory but not Constitutional "United States", meaning federal territory.

So what the vehicle codes in most states do is mix CRIMINAL and CIVIL and even PRIVATE franchise law all into one title of code, call it the "Vehicle code", and make it extremely difficult for even the most law abiding "citizen" to distinguish which provisions are CIVIL/FRANCHISES and which are CRIMINAL, because they want to put the police

force to an UNLAWFUL use enforcing CIVIL rather than CRIMINAL law. This has the practical effect of making the "CODE" not only a deception, but void for vagueness on its face, because it fails to give reasonable notice to the public at large, WHICH specific provisions pertain to EACH subset of the population. That in fact, is why they have to call it "the code", rather than simply "law": Because the truth is encrypted and hidden in order to unlawfully expand their otherwise extremely limited civil jurisdiction. The two subsets of the population who they want to confuse and mix together in order to undermine your sovereignty are:

1. Those who consent to the "social compact" by choosing a domicile or residence within a specific municipal jurisdiction. These people are identified by the following statutory terms:
   1.1. Individuals.
   1.2. Residents.
   1.3. Citizens.
   1.4. Inhabitants.
   1.5. PUBLIC officers serving as an instrumentality of the government.
2. Those who do NOT consent to the "social compact" and who therefore are called:
   2.1. Free inhabitants.
   2.2. Nonresidents.
   2.3. Transient foreigners.
   2.4. Sojourners.
   2.5. EXCLUSIVELY PRIVATE human beings beyond the reach of the civil statutes implementing the social compact.

The way they get around the problem of only being able to enforce the CIVIL provisions of the vehicle code against domiciliaries of the federal zone is to:

1. ONLY issue driver licenses to "residents" domiciled in the federal zone.
2. Confuse CONSTITUTIONAL "citizens" with STATUTORY "citizens", to make them appear the same even though they are NOT.
3. Arrest people for driving WITHOUT a license, even though technically these provisions can only be enforceable against those who are acting as a public officer WHILE driving AND who are STATUTORY but not CONSTITUTIONAL "citizens".

The act of "governing" WITHOUT consent therefore implies CRIMINAL governing, not CIVIL governing. To procure CIVIL jurisdiction over a private right requires the CONSENT of the owner of the right. That is why the U.S. Supreme Court states in Munn the following:

> *"When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain."*
> *[Munn. v. Illinois, 94 U.S. 113 (1876),*
> *SOURCE: http://scholar.google.com/scholar_case?case=6419197193322400931]*

Therefore, if one DOES NOT consent to join a "society" as a statutory citizen, he RETAINS those SOVEREIGN rights that would otherwise be lost through the enforcement of the civil law. Here is how the U.S. Supreme Court describes this requirement of law:

> *"Men are endowed by their Creator with certain unalienable rights,- 'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted.* ***That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations:***
>
> *[1]* ***First, that he shall not use it to his neighbor's injury,*** ***and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public "benefit"];***
>
> *[2]* ***second, that if he devotes it to a public use, he gives to the public a right to control that use; and***
>
> *[3]* ***third, that whenever the public needs require, the public may take it upon payment of due compensation."***
> *[Budd v. People of State of New York, 143 U.S. 517 (1892)]*

A PRIVATE right that is unalienable cannot be given away, even WITH consent. Hence, the only people that any government may CIVILLY govern are those without unalienable rights, all of whom MUST therefore be domiciled on federal territory where CONSTITUTIONAL rights do not exist.

Notice that when they are talking about "regulating" conduct using CIVIL law, all of a sudden they mention "citizens" instead of ALL PEOPLE. These "citizens" are those with a DOMICILE within federal territory not protected by the Constitution:

> *"Under these powers the government regulates the **conduct of its citizens** one towards another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good."*

All "citizens" that they can regulate therefore must be WITHIN the government and be acting as public officers. Otherwise, they would continue to be PRIVATE parties beyond the CIVIL control of any government. Hence, in a Republican Form of Government where the People are sovereign:

1. The only "subjects" under the civil law are public officers in the government.
2. The government is counted as a STATUTORY "citizen" but not a CONSTITUTIONAL "citizen". All CONSTITUTIONAL citizens are human beings and CANNOT be artificial entities. All STATUTORY citizens, on the other hand, are artificial entities and franchises and NOT CONSTITUTIONAL citizens.

> *"A corporation [the U.S. government, and all those who represent it as public officers, is a federal corporation per 28 U.S.C. §3002(15)(A)] is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."*
> *[19 Corpus Juris Secundum, Corporations, §886]*

> _____

> ***Citizens of the United States within the meaning of this Amendment must be natural and not artificial persons; a corporate body is not a citizen of the United States**.14*

> *14 Insurance Co. v. New Orleans, 13 Fed. Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States, corporations accordingly have been declared unable "to claim the protection of that clause of the Fourteenth Amendment which secures the privileges and immunities of citizens of the United States against abridgment or impairment by the law of a State." Orient Ins. Co. v. Daggs, 172 U.S. 557, 561 (1869) . This conclusion was in harmony with the earlier holding in Paul v. Virginia, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations were not within the scope of the privileges and immunities clause of state citizenship set out in Article IV, Sec. 2. See also Selover, Bates & Co. v. Walsh, 226 U.S. 112, 126 (1912) ; Berea College v. Kentucky, 211 U.S. 45 (1908) ; Liberty Warehouse Co. v. Tobacco Growers, 276 U.S. 71, 89 (1928) ; Grosjean v. American Press Co., 297 U.S. 233, 244 (1936).*
> *[SOURCE: Annotated Fourteenth Amendment, Congressional Research Service: http://www.law.corne...tml#amdt14a_hd1]*

3. The only statutory "citizens" are public offices in the government.
4. By serving in a public office, one becomes the same type of "citizen" as the GOVERNMENT is.

These observations are consistent with the very word roots that form the word "republic". The following video says the word origin comes from "res publica", which means a collection of PUBLIC rights shared by the public. You must therefore JOIN "the public" and become a public officer before you can partake of said PUBLIC right.

Overview of America, SEDM Liberty University, Section 2.3 http://sedm.org/LibertyU/LibertyU.htm

This gives a WHOLE NEW MEANING to Abraham Lincoln's Gettysburg Address, in which he refers to American government as:

> *"A government of the people, by the people, and for the people."*

You gotta volunteer as an uncompensated public officer for the government to CIVILLY govern you. Hence, the only thing they can CIVILLY GOVERN, is the GOVERNMENT! Pretty sneaky, huh? Here is a whole memorandum of law on this subject proving such a conclusion:

The other important point we wish to emphasize is that those who are EXCLUSIVELY private and therefore beyond the reach of the civil law are:

1. Free inhabitants.
2. Not a statutory "person" under the civil law or franchise statute in question.
3. Not "individuals" under the CIVIL law if they are human beings. All statutory "individuals", in fact, are identified as "employees" under 5 U.S.C. §2105(a). This is the ONLY statute that describes HOW one becomes a statutory "individual" that we have been able to find.
4. "foreign", a "transient foreigner", and sovereign in respect to government CIVIL but not CRIMINAL jurisdiction.
5. NOT "subject to" but also not necessarily statutorily "exempt" under the civil or franchise statute in question.

For a VERY interesting background on the subject of this section, we recommend reading the following case:

Mugler v. Kansas, 123 U.S. 623 (1887)
SOURCE: http://scholar.google.com/scholar_case?case=12658364258779560123

3 "Public" v. "Private" employment: You really work for Uncle Sam and not Your Private Employer If You Receive Federal "Benefits"

> *"All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient: the duty of superintending the industry of private people."*
> *[Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations (1776)]*

The U.S. Supreme Court has held many times that the ONLY purpose for lawful, constitutional taxation is to collect revenues to support ONLY the machinery and operations of the government and its "employees". This purpose, it calls a "public use" or "public purpose":

> *"The power to tax is, therefore, the strongest, the most pervading of all powers of government, reaching directly or indirectly to all classes of the people.* ***It was said by Chief Justice Marshall, in the case of McCulloch v. Md., 4 Wheat. 431, that the power to tax is the power to destroy.*** *A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent, imposed by the United States on the circulation of all other banks than the National Banks, drove out of existence every *state bank of circulation within a year or two after its passage. This power can be readily employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.*
>
> ***To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.***
>
> ***Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.***
>
> *Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa. St., 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that* ***taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.'*** *See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra."*
> *[Loan Association v. Topeka, 20 Wall. 655 (1874)]*

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

Black's Law Dictionary defines the word "public purpose" as follows:

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

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

A related word defined in Black's Law Dictionary is "public use":

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

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

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

Black's Law Dictionary also defines the word "tax" as follows:

"Tax: A charge by the government on the income of an individual, corporation, or trust, as well as the value of an estate or gift. The objective in assessing the tax is to generate revenue to be used for the needs of the public.

A pecuniary [relating to money] burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. In re Mytinger, D.C.Tex. 31 F.Supp. 977,978,979. ***Essential characteristics of a tax are that it is NOT A VOLUNTARY PAYMENT OR DONATION, BUT AN ENFORCED CONTRIBUTION, EXACTED PURSUANT TO***

LEGISLATIVE AUTHORITY. *Michigan Employment Sec. Commission v. Patt, 4 Mich.App. 228, 144 N.W.2d. 663, 665. …"*
[Black's Law Dictionary, Sixth Edition, p. 1457]

So in order to be legitimately called a "tax" or "taxation", the money we pay to the government must fit all of the following criteria:

1. The money must be used ONLY for the support of government.
2. The subject of the tax must be "liable", and responsible to pay for the support of government under the force of law.
3. The money must go toward a "public purpose" rather than a "private purpose".
4. The monies paid cannot be described as wealth transfer between two people or classes of people within society.
5. The monies paid *cannot* aid one group of private individuals in society at the expense of another group, because this violates the concept of equal protection of law for all citizens found in Section 1 of the Fourteenth Amendment.

If the monies demanded by government do *not* fit *all* of the above requirements, then they are being used for a "private" purpose and *cannot* be called "taxes" or "taxation", according to the U.S. Supreme Court. Actions by the government to enforce the payment of any monies that do *not* meet all the above requirements can therefore only be described as:

1. Theft and robbery by the government in the guise of "taxation"
2. Government by decree rather than by law
3. Tyranny
4. Socialism
5. Mob rule and a tyranny by the "have-nots" against the "haves"
6. 18 U.S.C. §241: Conspiracy against rights. The IRS shares tax return information with states of the union, so that both of them can conspire to deprive you of your property.
7. 18 U.S.C. §242: Deprivation of rights under the color of law. The Fifth Amendment says that people in states of the Union cannot be deprived of their property without due process of law or a court hearing. Yet, the IRS tries to make it appear like they have the authority to just STEAL these people's property for a fabricated tax debt that they aren't even legally liable for.
8. 18 U.S.C. §247: Damage to religious property; obstruction of persons in the free exercise of religious beliefs
9. 18 U.S.C. §872: Extortion by officers or employees of the United States.
10. 18 U.S.C. §876: Mailing threatening communications. This includes all the threatening notices regarding levies, liens, and idiotic IRS letters that refuse to justify why government thinks we are "liable".
11. 18 U.S.C. §880: Receiving the proceeds of extortion. Any money collected from Americans through illegal enforcement actions and for which the contributors are not "liable" under the law is extorted money, and the IRS is in receipt of the proceeds of illegal extortion.
12. 18 U.S.C. §1581: Peonage, obstructing enforcement. IRS is obstructing the proper administration of the Internal Revenue Code and the Constitution, which require that they respect those who choose NOT to volunteer to participate in the federal donation program identified under subtitle A of the I.R.C.
13. 18 U.S.C. §1583: Enticement into slavery. IRS tries to enlist "nontaxpayers" to rejoin the ranks of other peons who pay taxes they aren't demonstrably liable for, which amount to slavery.
14. 18 U.S.C. §1589: Forced labor. Being forced to expend one's personal time responding to frivolous IRS notices and pay taxes on my labor that I am not liable for.

The U.S. Supreme Court has further characterized all efforts to abuse the tax system in order to accomplish "wealth transfer" as "political heresy" that is a denial of republican principles that form the foundation of our Constitution, when it issued the following strong words of rebuke. Incidentally, the case below also forms the backbone of reasons why the Internal Revenue Code can never be anything more than private law that only applies to those who volunteer into it:

> *"The Legislature may enjoin, permit, forbid, and punish; they may declare new crimes; and establish rules of conduct for all its citizens in future cases; they may command what is right, and prohibit what is wrong; but* ***they [the government] cannot change innocence [a "nontaxpayer"] into guilt [a "taxpayer"]; or punish innocence as a crime [criminally prosecute a "nontaxpayer" for violation of the tax laws]; or violate the right of an antecedent lawful private contract; or the right of private property. To maintain that our Federal, or State, Legislature possesses such powers [of THEFT and FRAUD], if they had not been expressly restrained; would, *389 in my opinion, be a political heresy, altogether inadmissible in our free republican governments.****"*
> *[Calder v. Bull, 3 U.S. 386 (1798)]*

We also cannot assume or suppose that our government has the authority to make "gifts" of monies collected through its taxation powers, and especially not when paid to private individuals or foreign countries because:

1. The Constitution DOES NOT authorize the government to "gift" money to anyone within states of the Union or in foreign countries, and therefore, this is not a Constitutional use of public funds, nor does unauthorized expenditure of such funds produce a tangible public benefit, but rather an injury, by forcing those who do not approve of the gift to subsidize it and yet not derive any personal benefit whatsoever for it.
2. The Supreme Court identifies such abuse of taxing powers as "robbery in the name of taxation" above.

Based on the foregoing analysis, we are then forced to divide the monies collected by the government through its taxing powers into only two distinct classes. We also emphasize that every tax collected and every expenditure originating from the tax paid MUST fit into one of the two categories below:

Table 1: Two methods for taxation

#	*Characteristic*	*Public use/purpose*	*Private use/purpose*
1	***Authority for tax***	U.S. Constitution	Legislative fiat, tyranny
2	***Monies collected described by Supreme Court as***	Legitimate taxation	"Robbery in the name of taxation" (see *Loan Assoc. v. Topeka*, above)
3	***Money paid only to following parties***	Federal "employees", contractors, and agents	Private parties with no contractual relationship or agency with the government
4	***Government that practices this form of taxation is***	A righteous government	A THIEF
5	***This type of expenditure of revenues collected is:***	Constitutional	Unconstitutional
6	***Lawful means of collection***	Apportioned direct or indirect taxation	Voluntary donation (cannot be lawfully implemented as a "tax")
7	***Tax system based on this approach is***	A lawful means of running a government	A charity and welfare state for private interests, thieves, and criminals
8	***Government which identifies payment of such monies as mandatory and enforceable is***	A righteous government	A lying, thieving government that is deceiving the people.
9	***When enforced, this type of tax leads to***	Limited government that sticks to its corporate charter, the Constitution	Socialism Communism Mafia protection racket Organized extortion
10	***Lawful subjects of Constitutional, federal taxation***	Taxes on imports into states of the Union coming from foreign countries. See Constitution, Article 1, Section 8, Clause 3 (external) taxation.	No subjects of lawful taxation. Whatever unconstitutional judicial fiat and a deceived electorate will tolerate is what will be imposed and enforced at the point of a gun
11	***Tax system based on this approach based on***	Private property	All property being owned by the state through eminent domain. Tax becomes a means of "renting" what amounts to state property to private individuals for temporary use.

The U.S. Supreme Court also helped to clarify how to distinguish the two above categories when it said:

> *"It is undoubtedly the duty of the legislature which imposes or authorizes municipalities to impose a tax to see that it is not to be used for purposes of private interest instead of a public use, and the courts can only be justified in interposing when a violation of this principle is clear and the [87 U.S. 665] reason for interference cogent.* ***And in deciding whether, in the given case, the object for which the taxes are assessed falls upon the one side or the other of this line, they must be governed mainly by the course and usage of the government, the objects for which taxes have been customarily and by long course of legislation levied, what objects or purposes have been considered necessary to the support and for the proper use of the government, whether***

> ***state or municipal. Whatever lawfully pertains to this and is sanctioned by time and the acquiescence of the people may well be held to belong to the public use, and proper for the maintenance of good government, though this may not be the only criterion of rightful taxation."***
> *[Loan Association v. Topeka, 20 Wall. 655 (1874)]*

If we give our government the benefit of the doubt by "assuming" or "presuming" that it is operating lawfully and consistent with the model on the left above, then we have no choice but to conclude that everyone who lawfully receives any kind of federal payment MUST be either a federal "employee" or "federal contractor" on official duty, and that the compensation received must be directly connected to the performance of a sovereign or Constitutionally authorized function of government. Any other conclusion or characterization of a lawful tax other than this is irrational, inconsistent with the rulings of the U.S. Supreme Court on this subject, and an attempt to deceive the public about the role of limited Constitutional government based on Republican principles. This means that you cannot participate in any of the following federal social insurance programs WITHOUT being a federal "employee", and if you refuse to identify yourself as a federal employee, then you are admitting that your government is a thief and a robber that is abusing its taxing powers:

1. Subtitle A of the Internal Revenue Code. I.R.C. (26 U.S.C.) sections 1, 32, and 162 all confer privileged financial benefits to the participant which constitute federal "employment" compensation.
2. Social Security.
3. Unemployment compensation.
4. Medicare.

An examination of the Privacy Act, 5 U.S.C. §552a(a)(13), in fact, identifies all those who participate in the above programs as "federal personnel", which means federal "employees". To wit:

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a*
> *§ 552a. Records maintained on individuals*
>
> *(a) Definitions.— For purposes of this section—*
>
> ***(13)** the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), **individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits)**.*

The "individual" they are talking about above is further defined in 5 U.S.C. §552a(a)(2) as follows:

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a*
> *§ 552a. Records maintained on individuals*
>
> *(a) Definitions.— For purposes of this section—*
>
> *(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;*

The "citizen of the United States" they are talking above is based on the statutory rather than constitutional definition of the "United States", which means it refers to the federal zone and excludes states of the Union. Also, note that both of the two preceding definitions are found within Title 5 of the U.S. Code, which is entitled "Government Organization and Employees". Therefore, it refers ONLY to government "employees" and excludes private employees. There is no definition of the term "individual" anywhere in Title 26 (I.R.C.) of the U.S. Code or any other title that refers to private natural persons, because Congress cannot legislative for them. Notice the use of the phrase "private business" in the U.S. Supreme Court ruling below:

> *"The individual may stand upon his constitutional rights as a citizen. **He is entitled to carry on his private business in his own way [unregulated by the government]. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property.** His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public [including so-called "taxes" under Subtitle A of the I.R.C.] so long as he does not trespass upon their rights.**"*
> *[Hale v. Henkel, 201 U.S. 43, 74 (1906)]*

The purpose of the Constitution and the Bill of Rights instead is to REMOVE authority of the Congress to legislate for private persons and thereby protect their sovereignty and dignity. That is why the U.S. Supreme Court ruled the following:

> *"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations.* ***They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.****"*
> *[Olmstead v. United States,* 277 U.S. 438, 478 *(1928) (Brandeis, J., dissenting); see also Washington v. Harper,* 494 U.S. 210 *(1990)]*

QUESTIONS FOR DOUBTERS: If you aren't a federal "employee" as a person participating in Social Security and the Internal Revenue Code, then why are all of the Social Security Regulations located in Title 20 of the Code of Federal Regulations under parts 400-499, entitled "Employee Benefits"? See for yourself:

http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=f073dcf7b1b49c3d353eaf290d735663&c=ecfr&tpl=/ecfrbrowse/Title20/20tab_02.tpl

Another very important point to make here is that the purpose of nearly all federal law is to regulate "public conduct" rather than "private conduct". Congress must write laws to regulate and control every aspect of the behavior of its employees so that they do not adversely affect the rights of private individuals like you, who they exist exclusively to serve and protect. Most federal statutes, in fact, are exclusively for use by those working in government and simply do not apply to private citizens in the conduct of their private lives. This fact is exhaustively proven with evidence in:

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

Federal law cannot apply to the private public at large because the Thirteenth Amendment says that involuntary servitude has been abolished. If involuntary servitude is abolished, then they can't use, or in this case "abuse" the authority of law to impose ANY kind of duty against anyone in the private public except possibly the responsibility to avoid hurting their neighbor and thereby depriving him of the equal rights he enjoys.

> *For the commandments, "You shall not commit adultery," "You shall not murder," "You shall not steal," "You shall not bear false witness," "You shall not covet," and if there is any other commandment, are all summed up in this saying, namely, "You shall love your neighbor as yourself."*
>
> ***Love does no harm to a neighbor; therefore love is the fulfillment of [the ONLY requirement of] the law [which is to avoid hurting your neighbor and thereby love him]****.*
> *[Romans 13:9-10, Bible, NKJV]*
>
> ---
>
> *"Do not strive with a man without cause,* ***if he has done you no harm****."*
> *[Prov. 3:30, Bible, NKJV]*

Thomas Jefferson, our most revered founding father, summed up this *singular* duty of government to LEAVE PEOPLE ALONE and only interfere or impose a "duty" using the authority of law when and only when they are hurting each other in order to protect them and prevent the harm when he said.

> *"With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--****a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free*** *to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."*
> *[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]*

The U.S. Supreme Court confirmed this view, when it ruled:

> *"The power to "legislate generally upon" life, liberty, and property, as opposed to the "power to provide modes of redress" against offensive state action, was "repugnant" to the Constitution. Id., at 15. See also United States v. Reese,* 92 U.S. 214, 218 *(1876); United States v. Harris,* 106 U.S. 629, 639 *(1883); James v. Bowman,* 190 U.S. 127, 139 *(1903). Although the specific holdings of these early cases might have been superseded or*

modified, see, e.g., Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964); United States v. Guest, 383 U.S. 745 (1966), their treatment of Congress' §5 power as corrective or preventive, not definitional, has not been questioned."
[City of Boerne v. Florez, Archbishop of San Antonio, 521 U.S. 507 (1997)]

What the U.S. Supreme Court is saying above is that the government has no authority to tell you how to run your ***private life***. This is contrary to the whole idea of the Internal Revenue Code, whose main purpose is to monitor and control ***every aspect*** of those who are subject to it. In fact, it has become the chief means for Congress to implement what we call "social engineering". Just by the deductions they offer, people are incentivized into all kinds of crazy behaviors in pursuit of reductions in a liability that they in fact do not even have. Therefore, the only reasonable thing to conclude is that Subtitle A of the Internal Revenue Code, which would "appear" to regulate the private conduct of ***all*** human beings in states of the Union, in fact:

1. Only applies to "public employees", "public offices", and federal instrumentalities in the official conduct of their duties on behalf of the municipal corporation located in the District of Columbia, which 4 U.S.C. §72 makes the "seat of government".
2. Does not CREATE any new public offices or instrumentalities within the national government, but only regulates the exercise of EXISTING public offices lawfully created through Title 5 of the U.S. Code. The IRS abuses its forms to unlawfully CREATE public offices within the federal government. In payroll terminology, this is called "creating fictitious employees", and it is not only quite common, but highly illegal and can get private workers FIRED on the spot if discovered.
3. Regulates PUBLIC and not PRIVATE conduct and therefore does not pertain to private human beings.
4. Constitutes a franchise and a "benefit" within the meaning of 5 U.S.C. §552a. Tax "refunds" and "deductions", in fact, are the "benefit", and 26 U.S.C. §162 says that all those who take deductions MUST, in fact, be engaged in a public office within the government, which is called a "trade or business":

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a*
> *§ 552a. Records maintained on individuals*
>
> *(a) Definitions.— For purposes of this section—*
>
> *(12) the term **"Federal benefit program" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals**;. . .*

5. Has the job of concealing all the above facts in thousands of pages and hundreds of thousands of words so that the average American is not aware of it. That is why they call it the "code" instead of simply "law": Because it is private law you have to volunteer for and an "encryption" and concealment device for the truth. Now we know why former Treasury Secretary Paul O'Neil called the Internal Revenue Code "9500 pages of gibberish" before he quit his job in disgust and went on a campaign to criticize government.

The I.R.C. therefore essentially amounts to a part of the job responsibility and the "employment contract" of EXISTING "public employees", "public officers", and federal instrumentalities. This was also confirmed by the House of Representatives, who said that only those who take an oath of "public office" are subject to the requirements of the personal income tax. See:

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

The total lack of authority of the government to regulate or tax private conduct explains why, for instance:

1. The vehicle code in your state cannot be enforced on PRIVATE property. It only applies on PUBLIC roads owned by the government
2. The family court in your state cannot regulate the exercise of unlicensed and therefore PRIVATE CONTRACT marriage. Marriage licenses are a franchise that make those applying into public officers. Family court is a franchise court and the equivalent of binding arbitration that only applies to fellow statutory government "employees".
3. City conduct ordinances such as those prohibiting drinking by underage minors only apply to institutions who are licensed, and therefore PUBLIC institutions acting as public officers of the government.

Within the Internal Revenue Code, those legal "persons" who work for the government are identified as engaging in a "public office". A "public office" within the Internal Revenue Code is called a "trade or business", which is defined below. We emphasize that engaging in a privileged "trade or business" is the main excise taxable activity that in fact and in deed is what REALLY makes a person a "taxpayer" subject to the Internal Revenue Code, Subtitle A:

> *26 U.S.C. Sec. 7701(a)(26)*
>
> *"The term 'trade or business' includes the performance of the functions of a public office."*

Below is the definition of "public office":

> *Public office*
>
> *"Essential characteristics of a '**public office**' are:*
> *(1) Authority conferred by law,*
> *(2) Fixed tenure of office, and*
> *(3) Power to exercise some of the sovereign functions **of government**.*
> *(4) Key element of such test is that "officer is carrying out a sovereign function'.*
> *(5) Essential elements to establish public position as 'public office' are:*
> *(a) Position must be created by Constitution, legislature, or through authority conferred by legislature.*
> *(b) Portion of sovereign power of government must be delegated to position,*
> *(c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.*
> *(d) Duties must be performed independently without control of superior power other than law, and*
> *(e) Position must have some permanency."*
> *[Black's Law Dictionary, Sixth Edition, p. 1230]*

Those who are fulfilling the "functions of a public office" are under a legal, fiduciary duty as "trustees" of the "public trust", while working as "volunteers" for the "charitable trust" called the "United States Government Corporation", which we affectionately call "U.S. Inc.":

> *"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [1] **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [2] **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves.** [3] **and owes a fiduciary duty to the public.** [4] **It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual.** [5] Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[6]"*
> *[63C Am.Jur.2d, Public Officers and Employees, §247]*

"U.S. Inc." is a federal corporation, as defined below:

> *"Corporations are also of all grades, and made for varied objects; **all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the***

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

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

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

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

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

[6] Indiana State Ethics Comm'n v. Nelson (Ind App) 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

***instrument by which the incorporation is made. One universal rule of law protects persons and property**. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution."*
[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837)]

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART VI - PARTICULAR PROCEEDINGS
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS
Sec. 3002. Definitions

*(15) "**United States" means** -*
*(A) **a Federal corporation**;*
(B) an agency, department, commission, board, or other entity of the United States; or
(C) an instrumentality of the United States.

Those who are acting as "public officers" for "U.S. Inc." have essentially donated their formerly private property to a "public use". In effect, they have joined the SOCIALIST collective and become partakers of money STOLEN from people, most of whom, do not wish to participate and who would quit if offered an informed choice to do so.

"My son, if sinners [socialists, in this case] entice you,
Do not consent [do not abuse your power of choice]
If they say, "Come with us,
Let us lie in wait to shed blood [of innocent "nontaxpayers"];
Let us lurk secretly for the innocent without cause;
Let us swallow them alive like Sheol,
And whole, like those who go down to the Pit:
We shall fill our houses with spoil [plunder];
Cast in your lot among us,
Let us all have one purse [share the stolen LOOT]"--

My son, do not walk in the way with them [do not ASSOCIATE with them and don't let the government FORCE you to associate with them either by forcing you to become a "taxpayer"/government whore or a "U.S. citizen"],
Keep your foot from their path;
For their feet run to evil,
And they make haste to shed blood.
Surely, in vain the net is spread
In the sight of any bird;
But they lie in wait for their own blood.
They lurk secretly for their own lives.
So are the ways of everyone who is greedy for gain [or unearned government benefits];
It takes away the life of its owners."
[Proverbs 1:10-19, Bible, NKJV]

Below is what the U.S. Supreme Court says about those who have donated their private property to a "public use". The ability to volunteer your private property for "public use", by the way, also implies the ability to UNVOLUNTEER at any time, which is the part no government employee we have ever found is willing to talk about. I wonder why….DUHHHH!:

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

Any legal person, whether it be a natural person, a corporation, or a trust, may become a "public office" if it volunteers to do so. A subset of those engaging in such a "public office" are federal "employees", but the term "public office" or "trade or business" encompass much more than just government "employees". In law, when a legal "person" volunteers to accept the legal duties of a "public office", it therefore becomes a "trustee", an agent, and fiduciary (as defined in 26 U.S.C. §6903) acting on behalf of the federal government by the operation of private contract law. It becomes essentially a "franchisee" of the federal government carrying out the provisions of the franchise agreement, which is found in:

1. Internal Revenue Code, Subtitle A, in the case of the federal income tax.
2. The Social Security Act, which is found in Title 42 of the U.S. Code.

If you would like to learn more about how this "trade or business" scam works, consult the authoritative article below:

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

If you would like to know more about the extreme dangers of participating in all government franchises and why you destroy ALL your Constitutional rights and protections by doing so, see:

1. *Government Instituted Slavery Using Franchises*, Form #05.030
   http://sedm.org/Forms/FormIndex.htm
2. Liberty University, Section 4:
   http://sedm.org/LibertyU/LibertyU.htm

The IRS Form 1042-S Instructions confirm that all those who use Social Security Numbers are engaged in the "trade or business" franchise:

> ***Box 14, Recipient's U.S. Taxpayer Identification Number (TIN)***
>
> *You must obtain and enter a U.S. taxpayer identification number (TIN) for:*
>
> - *Any recipient whose income is effectively connected with the conduct of a* trade or business *in the United States.*
>
> *[*IRS Form 1042-S Instructions*, p. 14]*

Engaging in a "trade or business" therefore implies a "public office", which makes the person using the number into a "public officer" who has donated his formerly private time and services to a "public use" and agreed to give the public the right to control and regulate that use through the operation of the franchise agreement, which is the Internal Revenue Code, Subtitle A and the Social Security Act found in Title 42 of the U.S. Code. The Social Security Number is therefore the equivalent of a "license number" to act as a "public officer" for the federal government, who is a fiduciary or trustee subject to the plenary legislative jurisdiction of the federal government pursuant to 26 U.S.C. §7701(a)(39), 26 U.S.C. §7408(c), and Federal Rule of Civil Procedure Rule 17(b), regardless of where he might be found geographically, including within a state of the Union. The franchise agreement governs "choice of law" and where it's terms may be litigated, which is the District of Columbia, based on the agreement itself.

Now let's apply what we have learned to your employment situation. God said you cannot work for two companies at once. You can only serve *one* company, and that company is the federal government if you are receiving federal benefits:

> *"No one can serve two masters [two employers, for instance]; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. You cannot serve God and mammon [government]."*
> *[Luke 16:13, Bible, NKJV. Written by a tax collector]*

Everything you make while working for your slave master, the federal government, is *their* property over which you are a fiduciary and "public officer".

> *"THE" + "IRS" ="THEIRS"*

A federal "public officer" has no rights in relation to their master, the federal government:

> *"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973)."*
> *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

Your existence and your earnings as a federal "public officer" and "trustee" and "fiduciary" are entirely subject to the whim and pleasure of corrupted lawyers and politicians, and you must beg and grovel if you expect to retain anything:

> *"In the general course of human nature, A POWER OVER A MAN's SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL."*
> *[Alexander Hamilton, Federalist Paper No. 79]*

You will need an "exemption" from your new slave master specifically spelled out in law to justify ***anything*** you want to keep while working on the federal plantation. The 1040 return is a profit and loss statement for a federal business corporation called the "United States". You are in partnership with your slave master and they decide what scraps they want to throw to you in your legal "cage" AFTER they figure out whatever is left in financing their favorite pork barrel project and paying off interest on an ever-expanding and endless national debt. Do you really want to reward this type of irresponsibility and surety?

The W-4 therefore essentially amounts to a federal employment application. It is your badge of dishonor and a tacit admission that you can't or won't trust God and yourself to provide for yourself. Instead, you need a corrupted "protector" to steal money from your neighbor or counterfeit (print) it to help you pay your bills and run your life. Furthermore, if your private employer forced you to fill out the W-4 against your will or instituted any duress to get you to fill it out, such as threatening to fire or not hire you unless you fill it out, then he/she is:

1. Acting as an employment recruiter for the federal government.
2. Recruiting you into federal slavery in violation of the Thirteenth Amendment, and 42 U.S.C. §1994.
3. Involved in a conspiracy to commit grand theft by stealing money from you to pay for services and protection you don't want and don't need.
4. Involved in racketeering and extortion in violation of 18 U.S.C. §1951.
5. Involved in money laundering for the federal government, by sending in money stolen from you to them, in violation of 18 U.S.C. §1956.

The higher ups at the IRS probably know the above, and they certainly aren't going to tell private employers or their underlings the truth, because they aren't going to look a gift horse in the mouth and don't want to surrender their defense of "plausible deniability". They will NEVER tell a thief who is stealing for them that they are stealing, especially if they don't have to assume liability for the consequences of the theft. No one who practices this kind of slavery, deceit, and evil can rightly claim that they are loving their neighbor and once they know they are involved in such deceit, they have a duty to correct it or become an "accessory after the fact" in violation of 18 U.S.C. §3. This form of deceit is also the sin most hated by God in the Bible. Below is a famous Bible commentary on Prov. 11:1:

> *"As religion towards God is a branch of universal righteousness (he is not an honest man that is not devout), so* ***righteousness towards men is a branch of true religion, for he is not a godly man that is not honest****, nor can he expect that his devotion should be accepted; for,* ***1. Nothing is more offensive to God than deceit in commerce. A false balance is here put for all manner of unjust and fraudulent practices [of our public dis-servants] in dealing with any person [within the public], which are all an abomination to the Lord, and render those abominable [hated] to him that allow themselves in the use of such accursed arts of thriving. It is an affront to justice, which God is the patron of, as well as a wrong to our neighbour, whom God is the protector of. Men [in the IRS and the Congress] make light of such frauds, and think there is no sin in that which there is money to be got by, and, while it passes undiscovered, they cannot blame themselves for it; a blot is no blot till it is hit, Hos. 12:7, 8. But they are not the less an abomination to God, who will be the***

> ***avenger of those that are defrauded by their brethren. 2. Nothing is more pleasing to God than fair and honest dealing, nor more necessary to make us and our devotions acceptable to him: A just weight is his delight.*** *He himself goes by a just weight, and holds the scale of judgment with an even hand, and therefore is pleased with those that are herein followers of him. A balance cheats, under pretence of doing right most exactly, and therefore is the greater abomination to God."*
> *[Matthew Henry's Commentary on the Whole Bible; Henry, M., 1996, c1991, under Prov. 11:1]*

The Bible also says that those who participate in this kind of "commerce" with the government are practicing harlotry and idolatry. The Bible book of Revelations describes a woman called "Babylon the Great Harlot".

> *"And I saw a woman sitting on a scarlet beast which was full of names of blasphemy, having seven heads and ten horns. The woman was arrayed in purple and scarlet, and adorned with gold and precious stones and pearls, having in her hand a golden cup full of abominations and the filthiness of her fornication. And on her forehead a name was written:*
>
> *MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS AND OF THE ABOMINATIONS OF THE EARTH.*
>
> *I saw the woman, drunk with the blood of the saints and with the blood of the martyrs of Jesus. And when I saw her, I marveled with great amazement."*
> *[Rev. 17:3-6, Bible, NKJV]*

This despicable harlot is described below as the "woman who sits on many waters".

> *"Come, I will show you the judgment of the great harlot [Babylon the Great Harlot] who sits on many waters, with whom the kings of the earth [politicians and rulers] committed fornication, and the inhabitants of the earth were made drunk [indulged] with the wine of her fornication."*
> *[Rev. 17:1-2, Bible, NKJV]*

These waters are simply symbolic of a democracy controlled by mobs of atheistic people who are fornicating with the Beast and who have made it their false, man-made god and idol:

> *"The waters which you saw, where the harlot sits, are peoples, multitudes, nations, and tongues."*
> *[Rev. 17:15, Bible, NKJV]*

The Beast is then defined in Rev. 19:19 as "the kings of the earth", which today would be our political rulers:

> *"And I saw* ***the beast, the kings of the earth****, and their armies, gathered together to make war against Him who sat on the horse and against His army."*
> *[Rev. 19:19, Bible, NKJV]*

Babylon the Great Harlot is "fornicating" with the government by engaging in commerce with it. Black's Law Dictionary defines "commerce" as "intercourse":

> *"****Commerce****. …****Intercourse*** *by way of trade and traffic between different peoples or states and the citizens or inhabitants thereof, including not only the purchase, sale, and exchange of commodities, but also the instrumentalities [governments] and agencies by which it is promoted and the means and appliances by which it is carried on…"*
> *[Black's Law Dictionary, Sixth Edition, p. 269]*

If you want your rights back people, you can't pursue government employment in the context of your private job. If you do, the Bible, not us, says you are a harlot and that you are CONDEMNED to hell!

> *And I heard another voice from heaven saying, "Come out of her, my people, lest you share in her sins, and lest you receive of her plagues. For her sins have reached to heaven, and God has remembered her iniquities. Render to her just as she rendered to you, and repay her double according to her works; in the cup which she has mixed, mix double for her. In the measure that she glorified herself and lived luxuriously, in the same measure give her torment and sorrow; for she says in her heart, 'I sit* as *queen, and am no widow, and will not see sorrow.' Therefore her plagues will come in one day—death and mourning and famine. And she will be utterly burned with fire, for strong* is *the Lord God who judges her.*
> *[Rev. 18:4-8, Bible, NKJV]*

4 "Public official" v. "Public office"

There is much confusion over what a "public office" is within the federal government, and its proper relationship to the term "public official". This confusion was very deliberately created and maintained by the government because they don't want you to know the following:

1. That the federal income tax described in I.R.C. Subtitle A is an excise tax or "privilege tax" upon a voluntary federal franchise called a "public office".
2. What constitutes such a "public office" so that you can avoid the franchise and "unvolunteer".

You can search every IRS publication as we have and you will NEVER see a definition of what a constitutes a "public office", because they don't want you to unvolunteer and become a "nontaxpayer". Therefore, you will have to read and study the law as we have to deduce the full extent of the deception before you can regain your sovereignty and liberty and "fire" the government and your covetous "public servants" as your protector.

Those engaged in a "public office", for instance, need not ALSO be described as "public officials". In fact, "public officials" are an elected or appointed subset of all "public offices". We must remember that the tax described in Subtitle A of the Internal Revenue Code is a tax upon a federal franchise called a "public office", and NOT upon "public officials". This is also confirmed by 26 U.S.C. §6331(a), which describes who the real audience for the income tax is:

> *TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331*
> *§6331. Levy and distraint*
>
> *(a) Authority of Secretary*
>
> *If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

Note the use of the word "agency or instrumentality". This is an admission that the tax is not JUST upon "employees" or "public officials", but upon all "public offices". Every instrumentality of the federal government, in fact, constitutes a "public office". We will therefore spend the rest of this section describing exactly what constitutes a "public office", and this description is extracted from section 10 of the following pamphlet:

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

The subject of exactly what constitutes a "public office" within the meaning described in 26 U.S.C. §7701(a)(26) is not defined in any IRS publication we could find. The reason is quite clear: the "trade or business" scam is the Achilles heel of the IRS fraud and both the IRS and the Courts are loath to even talk about it because there is nothing they can defend themselves with other than unsubstantiated presumption created by the abuse of the word "includes" and certain key "words of art". Therefore, whose who want to know how they could lawfully be classified as a "public office" will have to answer that question completely on their own, which is what we will attempt to do in this section.

We begin our search with a definition of "public office" from Black's Dictionary:

> *Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 1nd.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46*

Ariz. 413, 52 P.2d. 483, 486. Where, by virtue of law, a person Is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with Independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio.St. 33. 29 N.E. 593.
[Black's Law Dictionary, Fourth Edition, p. 1235]

Black's Law Dictionary Sixth Edition further clarifies the meaning of a "public office" below:

*"Essential characteristics of a '**public office**' are:*
(1) Authority conferred by law,
(2) Fixed tenure of office, and
*(3) Power to exercise some of the sovereign functions **of government**.*

Key element of such test is that "officer is carrying out a sovereign function. Spring v. Constantino, 168 Conn. 563, 362 A.2d. 871, 875. Essential elements to establish public position as 'public office' are:
Position must be created by Constitution, legislature, or through authority conferred by legislature.
Portion of sovereign power of government must be delegated to position,
Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
Duties must be performed independently without control of superior power other than law, and
Position must have some permanency."
[Black's Law Dictionary, Sixth Edition, p. 1230]

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

*"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. [7] **Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts**. [8] **That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves. [9] and owes a fiduciary duty to the public. [10] It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. [11]***
Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.[12]"
[63C Am.Jur.2d, Public Officers and Employees, §247]

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

1. There is not a statute or constitutional authority that specifically creates the office. All "public offices" can only be created through legislative authority.
2. Their duties are not specifically and exactly enumerated in some Act of Congress.
3. They have a boss or immediate supervisor. All duties must be performed INDEPENDENTLY.
4. They have anyone but the law and the courts to immediately supervise their activities.
5. They are serving as a "public officer" in a location NOT specifically authorized by the law. The law must create the office and specify exactly where it is to be exercised. 4 U.S.C. §72 says ALL public offices of the federal and national government MUST be exercised ONLY in the District of Columbia and not elsewhere, except as expressly provided by law.

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

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

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

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

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

[12] Indiana State Ethics Comm'n v. Nelson (Ind App) 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

6. Their position does not carry with it some kind of fiduciary duty to the "public" which in turn is documented in and enforced by enacted law itself.
7. The beneficiary of their fiduciary duty is other than the "public". Public service is a public trust, and the beneficiary of the trust is the public at large and not any one specific individual or group of individuals. See 5 CFR §2635.101(b) and Executive Order 12731.

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

> *A person who, **upon being issued a commission, taking required oath**, enters upon, for a fixed tenure, a position called an office where he or she exercises in his or her own right some of the attributes of sovereign he or she serves for benefit of public. Macy v. Heverin, 44 Md.App. 358, 408 A.2d. 1067, 1069. The holder of a public office though not all persons in public employment are public officials, because public official's position requires the exercise of some portion of the sovereign power, whether great or small. Town of Arlington v. Bds. of Conciliation and Arbitration, Mass., 352 N.E.2d. 914.*
> *[Black's Law Dictionary, Sixth Edition, p. 1230]*

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

> *Statutes at Large, March 4, 1789*
> *1 Stat. 23-24*
>
> *SEC. 1. Be it enacted by the Senate and [Home of] Representatives of the United States of America in Congress assembled, That the oath or affirmation required by the sixth article of the Constitution of the United States, shall be administered in the form following, to wit : " I, A, B. do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." The said oath or affirmation shall be administered within three days after the passing of this act, by any one member of the Senate, to the President of the Senate, and by him to all the members and to the secretary; and by the Speaker of the House of Representatives, to all the members who have not taken a similar oath, by virtue of a particular resolution of the said House, and to the clerk: and in case of the absence of any member from the service of either House, at the time prescribed for taking the said oath or affirmation, the same shall be administered to such member, when he shall appear to take his seat.*
>
> *SEC. 2. And he it further enacted, That at the first session of Congress after every general election of Representatives, the oath or affirmation aforesaid, shall be administered by any one member of the House of Representatives to **the Speaker**; and by him **to all the members present**, and to **the clerk**, previous to entering on any other business; and to the members who shall afterwards appear, previous to taking their seats. The President of the Senate for the time being, shall also administer the said oath or affirmation to **each Senator who shall hereafter be elected**, previous to his taking his seat: and in any future case of a **President of the Senate**, who shall not have taken the said oath or affirmation, the same shall be administered to him by any one of the members of the Senate.*
>
> *SEC. 3. And be it further enacted. That **the members of the several State legislatures**, at the next sessions of the said legislatures, respectively, and **all executive and judicial officers of the several States, who have been heretofore chosen or appointed**, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State, in which such office shall be holden, to administer oaths. And **the members of the several State legislatures, and all executive and judicial officers of the several States**, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons, who by the law of the State shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken, shall cause a re- cord or certificate thereof to be made, in the same manner, as, by the law of the State, he or they shall be directed to record or certify the oath of office.*
>
> *SEC. 4. And he it further enacted, That all officers appointed, or hereafter to be appointed under the authority of the United States, shall, before they act in their respective offices, take the same oath or affirmation, which shall be administered by the person or persons who shall be authorized by law to administer to such officers their respective oaths of office; and such officers shall incur the same penalties in case of failure, as shall be imposed by law in case of failure in taking their respective oaths of office.*
>
> *SEC. 5. And be it further enacted, That the **secretary of the Senate**, and **the clerk of the House of Representatives** for the time being, shall, at the time of taking the oath or affirmation aforesaid, each take an oath or affirmation in the words following, to wit : "1, A. B. secretary of the Senate, or clerk of the House of Representatives (as the case may be) of the United States of America, do solemnly swear or affirm, that I will truly and faithfully discharge the duties of my said office, to the best of my knowledge and abilities."*

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

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

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

> *TITLE 4 > CHAPTER 3 > § 72*
> *§ 72. Public offices; at seat of Government*
>
> *All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.*
> *[SOURCE: http://www4.law.cornell.edu/uscode/html/uscode04/usc_sec_04_00000072----000-.html]*

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

> *TITLE 48 > CHAPTER 12 > SUBCHAPTER V > § 1612*
> *§ 1612. Jurisdiction of District Court*
>
> *(a) Jurisdiction*
>
> *The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28 and that of a bankruptcy court of the United States.* ***The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands.*** *Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of title 26 shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 1617 of this title.*

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

> *"It is no longer open to question that* ***the general government, unlike the states****, Hammer v. Dagenhart, 247 U.S. 251, 275 , 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724,* ***possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.****"*
> *[Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]*
>
> *"The difficulties arising out of our dual form of government and the opportunities for differing opinions concerning the relative rights of state and national governments are many;* ***but for a very long time this court has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their political subdivisions****. The same basic reasoning which leads to that conclusion, we think, requires like limitation upon the power which springs from the bankruptcy clause. United States v. Butler, supra."*
> *[Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513, 56 S.Ct. 892 (1936)]*

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

> *"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*
>
> *But very different considerations apply to the **internal commerce** or **domestic trade** of the **States**. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature**. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. Congress cannot authorize a trade or business within a State in order to tax it."*
> *[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]*

Since I.R.C. Subtitle A is a tax on "public offices", which is called a "trade or business", then the tax can only apply to those domiciled within statutory "United States**" (federal zone), *wherever they are physically located* to include states of the Union, but only if they are serving under oath in their official capacity as "public officers".

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

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

> *TITLE 28 > PART VI > CHAPTER 176 > SUBCHAPTER A > Sec. 3002.*
> *TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE*
> *PART VI - PARTICULAR PROCEEDINGS*
> *CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE*
> *SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS*
>
> *Sec. 3002. Definitions*
> *(15) **"United States" means** -*
> *(A) **a Federal corporation**;*
> *(B) an agency, department, commission, board, or other entity of the United States; or*
> *(C) an instrumentality of the United States.*

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

> *IV. PARTIES > Rule 17.*
> *Rule 17. Parties Plaintiff and Defendant; Capacity*
>
> *(b) Capacity to Sue or be Sued.*
>
> ***Capacity to sue or be sued is determined as follows:***
>
> *(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;*
> *(2) **for a corporation, by the law under which it was organized [laws of the District of Columbia]; and***
> *(3) for all other parties, by the law of the state where the court is located, except that:*

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

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

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

Government employees, including "public officers", while on official duty representing the federal corporation called the "United States", maintain the character of the entity they represent and therefore have a legal domicile of the District of Columbia within the context of their official duties. The Internal Revenue Code also reflects this fact in 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d):

TITLE 26 > Subtitle F > CHAPTER 79 > § 7701
§7701. Definitions

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

(39) Persons residing outside United States

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

(A) jurisdiction of courts, or

(B) enforcement of summons

TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter A > § 7408
§7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions

(d) Citizens and residents outside the United States

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

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

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

(b) Person defined

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

TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > § 7343
§7343. Definition of term "person"

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

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

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

The existence of fiduciary duty of "public officers" is therefore the ONLY lawful method by which anyone can be prosecuted for an "omission", which is a thing they didn't do that the law required them to do. It is otherwise illegal and unlawful to prosecute anyone under either common law or statutory law for a FAILURE to do something, such as a FAILURE TO FILE a tax return pursuant to 26 U.S.C. §7203. The duty to file a tax return comes NOT from a liability statute, but from the following liability associated with "taxpayers", all of whom are "public officers" within the United States government. The income tax is a franchise and you don't need liability statutes within the franchise agreement because all franchises are a product of your consent:

> *I: DUTY TO ACCOUNT FOR PUBLIC FUNDS*
>
> *§ 909. In general.-*
>
> ***It is the duty of the public officer, like any other agent or trustee, although not declared by express statute, to faithfully account for and pay over to the proper authorities all moneys which may come into his hands upon the public account, and the performance of this duty may be' enforced by proper actions against the officer himself, or against those who have become sureties for the faithful discharge of his duties.***
> *[Treatise on the Law of Public Offices and Public Officers, p. 609, §909; Floyd Mechem, 1890;*
> *SOURCE: http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage]*

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

> ***Attorney at law**. An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts. An officer in a court of justice, who is employed by a party in a cause to manage it for him. In re Bergeron, 220 Mass. 472, 107 N.E. 1007, 1008, Ann.Cas.l917A, 549.*
>
> *In English law. **A public officer belonging to the superior courts of common law at Westminster**. who conducted legal proceedings on behalf of others. called his clients, by whom he was retained; he answered to the solicitor in the courts of chancery, and the proctor of the admiralty, ecclesiastical, probate, and divorce courts. An attorney was almost invariably also a solicitor. It is now provided by the judicature act. 1873, 8 87. that solicitors. Attorneys, or proctors of, or by law empowered to practice in, any court the jurisdiction of which is by that act transferred to the high court of justice or the court of appeal, shall be called "solicitors of the supreme court." Wharton.*
> *[Black's Law Dictionary, Fourth Edition, p. 164]*
>
> _____
>
> *ATTORNEY AND CLIENT, Corpus Juris Secundum Legal Encyclopedia Volume 7, Section 4*
>
> *His [the attorney's] first duty is to the courts and the public, not to the client, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.*
> *[7 C.J.S. Attorney and Client, §4]*

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

> *Executive Order 12731*
> *"Part 1 -- PRINCIPLES OF ETHICAL CONDUCT*
>
> *"Section 101. Principles of Ethical Conduct. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:*
>
> ***"(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.***
>
> _____

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

(a) Public service is a public trust.

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

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

*"**TRUSTEE.** The person appointed, or required by law, to execute a trust; one in whom an estate, interest, or power is vested, **under an express or implied agreement [e.g. PRIVATE LAW or CONTRACT] to administer or exercise it for the benefit or to the use of another called the cestui que trust.** Pioneer Mining Co. v. Tyberg, C.C.A.Alaska, 215 F. 501, 506, L.R.A.l915B, 442; Kaehn v. St. Paul Co-op. Ass'n, 156 Minn. 113, 194 N.W. 112; Catlett v. Hawthorne, 157 Va. 372, 161 S.E. 47, 48. Person who holds title to res and administers it for others' benefit. Reinecke v. Smith, Ill., 53 S.Ct. 570, 289 US. 172, 77 L.Ed. 1109. **In a strict sense, a "trustee" is one 'who holds the legal title to property for the benefit of another, while, in a broad sense, the term is sometimes applied to anyone standing in a fiduciary or confidential relation to another, such as agent, attorney, bailee, etc. State ex rel. Lee v. Sartorius, 344 Mo. 912, 130 S.W.2d. 547, 549, 550.** "Trustee" is also used In a wide and perhaps inaccurate sense, to denote that a person has the duty of carrying out a transaction, in which he and another person are interested, in such manner as will be most for the benefit of the latter, and not in such a way that he himself might be tempted, for the sake of his personal advantage, to neglect the interests of the other. In this sense, directors of companies are said to be "trustees for the shareholders." Sweet. [Black's Law Dictionary, Fourth Edition, p. 1684]*

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

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

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

An example of someone who is NOT a "public officer" is a federal "employee" on duty and who is not required to take an oath. Almost invariably, such "employees" have some kind of immediate supervisor who manages and oversees and evaluates his activities pursuant to the position description drafted for the position he fills. He may be a "trustee" and he may have a "fiduciary duty" to the public as a "public servant", but he isn't an "officer" or "public officer" unless and until he takes an oath of office prescribed by law. A federal "employee", however, can become a "public office" by virtue of any one or more of the following purposes that we are aware of so far:

1. Be elected to political office.
2. Being appointed to political office by the President or the governor of a state of the Union.
3. Voluntarily engaging in a privileged, excise taxable activity called a "trade or business", which effectively is an extension of the federal government and is defined as a "public office" in 26 U.S.C. §7701(a)(26). A "trade or business" is a federal business franchise and partnership, in which you become a trustee and public official of the United States who has donated his private property temporarily to a "public use" for the purpose of procuring "privileged compensation" of a public office in the form of tax deductions under 26 U.S.C. §162, Earning income credits under 26 U.S.C. §32, and a graduated REDUCED rate of tax under 26 U.S.C. §1. Only those engaged in a "public office"/"trade or business" can avail themselves of any of these pecuniary government financial incentives.
4. Engaging in a privileged activity regulated by the federal government, such as:
   4.1. Pursuing a license to practice law. All attorneys are officers of the court, and all courts are part of the government and therefore "public" entities.

4.2. Applying for and accepting FDIC insurance as an officer of a bank. See 31 CFR §202.2, which makes those accepting FDIC federal insurance into agents of the federal government.

4.3. Becoming an officer of a corporation, and only within the context of the jurisdiction the corporation is registered in. The officers of a state-only registered corporation would be "public officers" only within the context of the specific state they registered in. They would have to make application for recognition as a federal corporation to also be "public officers" in the context of federal law.

A "public office" is not limited to a natural person. It can also extend to an entire entity such as a corporation. An example of an entity that is a "public office" in its entirety is a federally chartered bank, such as the original Bank of the United States described in *Osborn v. United States*, in which the U.S. Supreme Court identified the original and first Bank of the United States, a federally chartered bank corporation created by Congress, as a "public office":

> ***All the powers of the government must be carried into operation by individual agency, either through the medium of public officers, or contracts made with individuals.*** *Can any public office be created, or does one exist, the performance of which may, with propriety, be assigned to this* ***association [or trust], when incorporated? If such office exist, or can be created, then the company may be incorporated, that they may be appointed to execute such office. Is there any portion of the public business performed by individuals upon contracts, that this association could be employed to perform, with greater advantage and more safety to the public, than an individual contractor? If there be an employment of this nature, then may this company be incorporated to undertake it.***
>
> ***There is an employment of this nature.*** *Nothing can be more essential to the fiscal concerns of the nation, than an agent of undoubted integrity and established credit, with whom the public moneys can, at all times, be safely deposited. Nothing can be of more importance to a government, than that there should be some capitalist in the country, who possesses the means of making advances of money to the government upon any exigency, and who is under a legal obligation to make such advances. For these purposes the association would be an agent peculiarly suitable and appropriate. [. . .]*
>
> *The mere creation of a corporation, does not confer political power or political character. So this Court decided in Dartmouth College v. Woodward, already referred to. If I may be allowed to paraphrase the language of the Chief Justice, I would say, a bank incorporated, is no more a State instrument, than a natural person performing the same business would be. If, then, a natural person, engaged in the trade of banking, should contract with the government to receive the public money upon deposit, to transmit it from place to place, without charging for commission or difference of exchange, and to perform, when called upon, the duties of commissioner of loans, would not thereby become a public officer, how is it that this artificial being, created by law for the purpose of being employed by the government for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? because the government has given it power to take and hold property in a particular form, and to employ that property for particular purposes, and in the disposition of it to use a particular name? because the government has sold it a privilege [22 U.S. 738, 774] for a large sum of money, and has bargained with it to do certain things; is it, therefore, a part of the very government with which the contract is made?*
>
> ***If the Bank be constituted a public office, by the connexion between it and the government, it cannot be the mere legal franchise in which the office is vested; the individual stockholders must be the officers.*** *Their character is not merged in the charter. This is the strong point of the Mayor and Commonalty v. Wood, upon which this Court ground their decision in the Bank v. Deveaux, and from which they say, that cause could not be distinguished. Thus, aliens may become public officers, and public duties are confided to those who owe no allegiance to the government, and who are even beyond its territorial limits.*
>
> ***With the privileges and perquisites of office, all individuals holding offices, ought to be subject to the disabilities of office. But if the Bank be a public office, and the individual stockholders public officers, this principle does not have a fair and just operation.*** *The disabilities of office do not attach to the stockholders; for we find them every where holding public offices, even in the national Legislature, from which, if they be public officers, they are excluded by the constitution in express terms.*
>
> ***If the Bank be a public institution of such character as to be justly assimilated to the mint and the post office, then its charter may be amended, altered, or even abolished, at the discretion of the National Legislature. All public offices are created*** *[22 U.S. 738, 775]* ***purely for public purposes, and may, at any time, be modified in such manner as the public interest may require. Public corporations partake of the same character. So it is distinctly adjudged in Dartmouth College v. Woodward. In this point, each Judge who delivered an opinion concurred. By one of the Judges it is said, that*** *'public corporations are generally esteemed such as exist for public political purposes only, such as towns, cities, parishes and counties; and in many respects they are so, although they involve some private interests; but, strictly speaking, public corporations are such only as are founded by the government for public purposes, where the whole interest belongs also to the government.* ***If, therefore, the foundation be private, though under the charter of the government, the corporation is private, however extensive the uses may be to which it is devoted, either by the bounty of the founder, or the nature and objects of the institution. For instance, a bank, created by the government for its own uses, whose stock***

> ***is exclusively owned by the government, is, in the strictest sense, a public corporation. So, a hospital created and endowed by the government for general charity. But a bank, whose stock is owned by private persons, is a private corporation, although it is erected by the government, and its objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain sense, be called public,*** *but the corporations are private; as much [22 U.S. 738, 776] so, indeed, as if the franchises were vested* ***in a single person.[. . .]***
>
> *In what sense is it an instrument of the government? and in what character is it employed as such? Do the government employ the faculty, the legal franchise, or do they employ the individuals upon whom it is conferred? and what is the nature of that employment? does it resemble the post office, or the mint, or the custom house, or the process of the federal Courts?*
>
> *The post office is established by the general government. It is a public institution. The persons who perform its duties are public officers. No individual has, or can acquire, any property in it. For all the services performed, a compensation is paid out of the national treasury; and all the money received upon account of its operations, is public property. Surely there is no similitude between this institution, and an association who trade upon their own capital, for their own profit, and who have paid the government a million and a half of dollars for a legal character and name, in which to conduct their trade.*
>
> *Again: the business conducted through the agency of the post office, is not in its nature a private business. It is of a public character, and the [22 U.S. 738, 786] charge of it is expressly conferred upon Congress by the constitution. The business is created by law, and is annihilated when the law is repealed. But the trade of banking is strictly a private concern. It exists and can be carried on without the aid of the national Legislature. Nay, it is only under very special circumstances, that the national Legislature can so far interfere with it, as to facilitate its operations.*
>
> *The post office executes the various duties assigned to it, by means of subordinate agents. The mails are opened and closed by persons invested with the character of public officers. But they are transported by individuals employed for that purpose, in their individual character, which employment is created by and founded in contract. To such contractors no official character is attached. These contractors supply horses, carriages, and whatever else is necessary for the transportation of the mails, upon their own account. The whole is engaged in the public service. The contractor, his horses, his carriage, his driver, are all in public employ. But this does not change their character. All that was private property before the contract was made, and before they were engaged in public employ, remain private property still. The horses and the carriages are liable to be taxed as other property, for every purpose for which property of the same character is taxed in the place where they are employed. The reason is plain: the contractor is employing his own means to promote his own private profit, and the tax collected is from the individual, though assessed upon the [22 U.S. 738, 787] means he uses to perform the public service. To tax the transportation of the mails, as such, would be taxing the operations of the government, which could not be allowed. But to tax the means by which this transportation is effected, so far as those means are private property, is allowable; because it abstracts nothing from the government; and because, the fact that an individual employs his private means in the service of the government, attaches to them no* ***immunity whatever."***
> *[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]*

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

House of Representatives, Ex. Doc. 99, 1867
http://famguardian.org/Subjects/Taxes/Evidence/PublicOrPrivate-Tax-Return.pdf

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

> ***House of Representatives, Ex. Doc. 99, 1867, pp. 1-2***
> ***39th Congress, 2d Session***
>
> ***Salary Tax Upon Clerks to Postmasters***
>
> ***Letter from the Secretary of the Treasury in answer to A resolution of the House of the 12th of February, relative to salary tax upon clerks to postmasters, with the regulations of the department***

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

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

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

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

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

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

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

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

H. McCulloch, Secretary of the Treasury
[House of Representatives, Ex. Doc. 99, 1867, pp. 1-2]

Notice based on the above that revenue officers don't take an oath, so they don't have to pay the tax, while postal clerks take an oath, so they do. Therefore, the oath that creates the "public office" is the method by which the government manufactures "public officers", "taxpayers", and "sponsors" for its wasteful use or abuse of public monies.

If you would like to investigate the subject of "public offices" and "public officers" further, we highly recommend the follow free book on the subject available online:

Treatise on the Law of Public Offices and Public Officers, Floyd Mechem http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage

5 Legislative Intent of the Sixteenth Amendment[13]

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

Whenever there are controversies over the interpretation of a taxing statute or a Constitutional provision, the first thing that courts of justice will resort to is the plain language of the law itself. If the language is unclear or subject to multiple interpretations, the courts will then examine the legislative intent revealed by those who wrote the law. The most revealing way to determine the legislative intent of any law is to examine the Congressional debates and Congressional Record preceding its enactment. All changes to the law that were proposed during debate and rejected must then be rejected as not being consistent with the intent of the proposed law. Family Guardian has photocopied all of the debates surrounding the ratification of the Sixteenth Amendment and made them available for free on the web at:

Sixteenth Amendment Congressional Debates
http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf

From the above Congressional debates, here is what was said about the Sixteenth Amendment by Congressman Brandegee:

> *"Mr. Brandegee. **Mr. President, what I said was that the amendment exempts absolutely everything that a man makes for himself.** Of course it would not exempt a legacy which somebody else made for him and gave to him. If a man's occupation or vocation—for vocation means nothing but a calling—if his calling or occupation were that of a financier it would exempt everything he made by underwriting and by financial operations in the course of a year that would be the product of his effort. **Nothing can be imagined that a man can busy himself about with a view of profit which the amendment as drawn would not utterly exempt.**"*
> *[50 Cong.Rec. p. 3839, 1913]*

Even the U.S. Supreme Court agrees with the above conclusion that earnings from labor are not taxable to the person who did the work:

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

Being that there are greedy men in the government who will try to use legal sophistry to hoodwink you out of your hard-earned money, we must look deeper than the above to show that the legislative intent, according to the drafters of the Sixteenth Amendment, was to impose an un-apportioned indirect excise tax on the privileges of "public office" in the national government. The first thing we must look at to discern the legislative intent of the Sixteenth Amendment is the proposal of the Amendment by the President himself.

Understanding the legislative intent of the Sixteenth Amendment is important because those who communicate with their Congressmen and the IRS are frequently told the lie that the Sixteenth Amendment authorized the tax which is being collected. You will see the ratification mentioned both by Congressmen in their correspondence with constituents and by the Congressional Research Service Report 97-59A entitled "Frequently Asked Questions Concerning the Federal Income Tax", which is featured on the web at:

Rebutted Version of Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax, Form #08.006
http://sedm.org/Forms/FormIndex.htm

The following written message by President William H. Taft was read in front of the U.S. Senate, in which he introduced the 16th Amendment and clearly revealed its legislative intent. It is *very* revealing, in that it shows that the intent was to allow the government to tax ***only*** its own employees but not private citizens. President Taft would also later be appointed to the Supreme Court in 1921 as the Chief Justice, and eventually became the only U.S. President who ever served as the Chief Justice of the Supreme Court and a Collector of Internal Revenue. He replaced E.B. White as the Chief Justice, who you may recall was the person who opposed the majority view in the Pollock Case that declared income taxes

[13] Adapted from section 3.11.11.1 of the *Great IRS Hoax*.

unconstitutional. White wanted to make direct taxes legal, and apparently, so did Taft. No other U.S. President, therefore, had a better understanding of the legal implications of the proposed 16th Amendment than did Taft.

> *CONGRESSIONAL RECORD - SENATE - JUNE 16, 1909*
>
> *[From Pages 3344 – 3345]*
> *The Secretary read as follows:*
> *To the Senate and House of Representatives:*
>
> *It is the constitutional duty of the President from time to time to recommend to the consideration of Congress such measures, as he shall judge necessary and expedient. In my inaugural address, immediately preceding this present extraordinary session of Congress, I invited attention to the necessity for a revision of the tariff at this session, and stated the principles upon which I thought the revision should be affected. I referred to the then rapidly increasing deficit and pointed out the obligation on the part of the framers of the tariff bill to arrange the duty so as to secure an adequate income, and suggested that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among them I recommended a graduated inheritance tax as correct in principle and as certain and easy of collection.*
>
> *The House of Representatives has adopted the suggestion, and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of the debate indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the imposition of a general income tax, in form and substance of almost exactly the same character as, that which **in the case of Pollock v. Farmer's Loan and Trust Company (157 U.S., 429) was held by the Supreme Court to be a direct tax, and therefore not within the power of the Federal Government to Impose unless apportioned among the several States according to population.** [Emphasis added] This new proposal, which I did not discuss in my inaugural address or in my message at the opening of the present session, makes it appropriate for me to submit to the Congress certain additional recommendations.*
>
> *Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency. The decision of the Supreme Court in the income-tax cases **deprived the National Government of a power** which, by reason of previous decisions of the court, it was **generally supposed that government had**. It is undoubtedly a power the National Government ought to have. It might be indispensable to the Nation's life in great crises. Although I have not considered a constitutional amendment as necessary to the exercise of certain phases of this power, a mature consideration has satisfied me that an amendment is the only proper course for its establishment to its full extent.*
>
> *I therefore recommend to the Congress that both Houses, by a two-thirds vote, **shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government** without apportionment among the States in proportion to population.*
> *[SOURCE OF TEXT OF ORIGINAL MESSAGE FROM CONGRESSIONAL RECORD: http://www.sedm.org/MemberAgreement/16thLegislativeIntent-Taft19090616.pdf]*

Note the key words in Taft's speech about the Sixteenth Amendment:

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

Based on the clever wording above, the tax proposed by the Sixteenth Amendment is upon the government, and not upon the populace. If he had meant to impose the tax upon the general populace, he would have instead said:

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

Taft was no dummy and knew exactly what he was saying here, because:

1. He was the sitting President when the Sixteenth Amendment was allegedly but fraudulently ratified in 1913.
2. He was in office when his lame duck Secretary of State Philander Knox fraudulently claimed that the Sixteenth Amendment was ratified in 1913, just before he left office.
3. His speech was given more than 45 years after the Civil War, in which the Congress had implemented exactly the kind of tax exclusively on federal employees as the one he wanted to put into the proposed Sixteenth Amendment.

4. He was the sitting chief justice of the Supreme Court when they made the *Bowers v. Kerbaugh-Empire Co.* ruling at the beginning of this section.
5. During his tenure in office, Taft dismantled the Circuit Courts with the Judicial Code of 1911, and changed them from "District Courts of the United States" to "United States District Courts". This changed their character from Article III Constitutional courts to Article IV legislative Courts. This set the stage for implementing the Internal Revenue Code against people in the States, who would subsequently be turned into "U.S. citizens" subject to federal jurisdiction by the corruption of the courts beginning in 1932, when all federal judges became biased "taxpayers" who would be persecuted if they did not side with the IRS.

Taft knew that just like the first income tax levied in 1862 to fund the Civil War, the only authority of the federal government to impose an income tax, following the declaration of the first such income tax being unconstitutional in the case of *Pollock v. Farmers Loan and Trust*, was a tax upon the "employees" of the national government.

After the passage of the Sixteenth Amendment, the Supreme Court repeatedly held that:

> *"... **[the 16th Amendment] conferred no new power of taxation**... [and]... prohibited the ... power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged...".*
> *[Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]*

The only difference between before and after the Sixteenth Amendment was the way in which the Sixteenth Amendment was "presented" to the American public by the IRS and our politicians and the way the terms were later defined in subsequent revenue acts to confuse and obfuscate the true, limited nature of its applicability mainly to federal "employees".

If you would like to know more about the history of this scandalous subject, see *Great IRS Hoax*, Form #11.302, Sections 3.11.11.1 and 6.4.1.

6 Two Taxing Jurisdictions under the I.R.C.: "National" v. "Federal"

Now that we have established the fine line between lawful, public use taxation and unlawful private use taxation, next we concern ourselves with the authority of the federal government to enforce the payment of either.

The government deception gets worst, folks. Congress legislates for two separate legal and political and territorial jurisdictions:

1. The states of the Union under the requirements of the Constitution of the United States. In this capacity, it is called the "federal/general government".
2. The District of Columbia, U.S. possessions and territories, and enclaves within the states. In this capacity, it is called the "national government". The authority for this jurisdiction derives from Article 1, Section 8, Clause 17 of the United States Constitution. All laws passed essentially amount to municipal laws for federal property, and in that capacity, Congress is not restrained by either the Constitution or the Bill of Rights. We call the collection of all federal territories, possessions, and enclaves within the states "the federal zone" throughout this document.

The U.S. Supreme Court confirmed the above when it held the following:

> *"It is clear that Congress, as a legislative body, exercise two species of legislative power: the one, limited as to its objects, but extending all over the Union: the other, an absolute, exclusive legislative power over the District of Columbia. The preliminary inquiry in the case now before the Court, is, by virtue of which of these authorities was the law in question passed?"*
> *[Cohens v. Virginia, 19 U.S. 264, 6 Wheat. 265; 5 L.Ed. 257 (1821)]*

James Madison, one of our founding fathers, described these two separate jurisdictions in Federalist Paper #39, when he said:

> *First. In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.*

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State, the authority of the people themselves. The act, therefore, establishing the Constitution, will not be a NATIONAL, but a FEDERAL act.

That it will be a federal and not a national act, as these terms are understood by the objectors; the act of the people, as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration, that it is to result neither from the decision of a MAJORITY of the people of the Union, nor from that of a MAJORITY of the States. *It must result from the UNANIMOUS assent of the several States that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority, in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States. Neither of these rules have been adopted. Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a FEDERAL, and not a NATIONAL constitution.*

The next relation is, to the sources from which the ordinary powers of government are to be derived. ***The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular State. So far the government is NATIONAL, not FEDERAL.*** *The Senate, on the other hand, will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is FEDERAL, not NATIONAL. The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society. The eventual election, again, is to be made by that branch of the legislature which consists of the national representatives; but in this particular act they are to be thrown into the form of individual delegations, from so many distinct and coequal bodies politic. From this aspect of the government it appears to be of a mixed character, presenting at least as many FEDERAL as NATIONAL features.*

The difference between a federal and national government, as it relates to the OPERATION OF THE GOVERNMENT, is supposed to consist in this, that in the former the powers operate on the political bodies composing the Confederacy, in their political capacities; in the latter, on the individual citizens composing the nation, in their individual capacities*. On trying the Constitution by this criterion, it falls under the NATIONAL, not the FEDERAL character; though perhaps not so completely as has been understood. In several cases, and particularly in the trial of controversies to which States may be parties, they must be viewed and proceeded against in their collective and political capacities only. So far the national countenance of the government on this side seems to be disfigured by a few federal features. But this blemish is perhaps unavoidable in any plan; and the operation of the government on the people, in their individual capacities, in its ordinary and most essential proceedings, may, on the whole, designate it, in this relation, a NATIONAL government.*

But if the government be national with regard to the OPERATION of its powers, it changes its aspect again when we contemplate it in relation to the EXTENT of its powers. The idea of a national government involves in it, not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation, this supremacy is completely vested in the national legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures. In the former case, all local authorities are subordinate to the supreme; and may be controlled, directed, or abolished by it at pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority, than the general authority is subject to them, within its own sphere. ***In this relation, then, the proposed government cannot be deemed a NATIONAL one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.*** *It is true that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the general government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact; and that it ought to be established under the general rather than under the local governments, or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.*

If we try the Constitution by its last relation to the authority by which amendments are to be made, we find it neither wholly NATIONAL nor wholly FEDERAL. Were it wholly national, the supreme and ultimate authority would reside in the MAJORITY of the people of the Union; and this authority would be competent at all times,

> *like that of a majority of every national society, to alter or abolish its established government. Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and principles. In requiring more than a majority, and particularly in computing the proportion by STATES, not by CITIZENS, it departs from the NATIONAL and advances towards the FEDERAL character; in rendering the concurrence of less than the whole number of States sufficient, it loses again the FEDERAL and partakes of the NATIONAL character.*
>
> *The proposed Constitution, therefore, is, in strictness, neither a national nor a federal Constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is federal, not national; and, finally, in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national.*
>
> *PUBLIUS.*
> *[Federalist Paper #39, James Madison]*

Based on Madison's comments, a "national government" operates upon and derives its authority from individual citizens whereas a "federal government" operates upon and derives its authority from states. The only place where the central government may operate directly upon the individual through the authority of law is within federal territory. Hence, when courts use the word "national government", they are referring to federal territory only and to no part of any state of the Union. The federal government has no jurisdiction within a state of the Union and therefore cannot operate directly upon the individual there.

> *"It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, 247 U.S. 251, 275 , 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.**"*
> *[Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]*
>
> ---
>
> *The rights of life and personal liberty are natural rights of man. 'To secure these rights,' says the Declaration of Independence, 'governments are instituted among men, deriving their just powers from the consent of the governed.' **The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these 'unalienable rights with which they were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy *554 to falsely imprison or murder within a State, than it would be to punish for false imprisonment or murder itself.***
>
> *The fourteenth amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, and which we have just considered, add any thing *555 to the rights which one citizen has under the Constitution against another. **The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States; and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the national government is limited to the enforcement of this guaranty**.*
> *[U.S. v. Cruikshank, 92 U.S. 542, 1875 WL 17550 (U.S.,1875)]*

These two jurisdictions are separate sovereignties, and the Constitution dictates that these two distinct sovereignties MUST remain separate because of the Separation of Powers Doctrine:

> *"§79. This sovereignty pertains to the people of the United States as national citizens only, and not as citizens of any other government. There cannot be two separate and independent sovereignties within the same limits or jurisdiction; nor can there be two distinct and separate sources of sovereign authority within the same jurisdiction. The right of commanding in the last resort can be possessed only by one body of people inhabiting the same territory,' and can be executed only by those intrusted with the execution of such authority."*
> *[Treatise on Government, Form #11.207, Joel Tiffany, p. 49, Section 78;*
> *SOURCE: http://famguardian.org/Publications/TreatiseOnGovernment/TreatOnGovt.pdf]*

The vast majority of all laws passed by Congress apply to the latter jurisdiction above: the federal zone. The Internal Revenue Code actually describes the revenue collection "scheme" for these two completely separate political and legal jurisdictions and the table below compares the two. In the capacity as the "national government", the I.R.C. in Subtitles A (income tax), B (inheritance tax), and C (employment tax) acts as the equivalent of a state income tax for the municipal government of the District of Columbia only. In the capacity of the "federal government", the I.R.C. in subtitle D acts as

an excise tax on imports only. The difference between the "national government" and the "federal/general government" is discussed in section 4.7 of the *Great IRS Hoax*, if you would like to review:

Table 2: Two jurisdictions within the I.R.C.

		Legislative jurisdiction	
#	*Description*	*"National government" of the District of Columbia*	*"Federal government" of the states of the Union*
1	Constitutional authority for revenue collection	Article 1, Section 8, Clause 1 Article 1, Section 8, Clause 17	Article 1, Section 8, Clause 3
2	Type of jurisdiction exercised	Plenary Exclusive	Subject matter
3	Nature of tax	Indirect excise tax upon privileges of "public office"	Indirect excise tax on imports only Excludes exports from states (Constitution 1:9:5) Excludes commerce exclusively within states
4	Taxable objects	*Internal* to the Federal zone or internal to the U.S. government	*External* to the states of the Union (imports coming in)
5	Region to which collections apply	Federal zone and abroad and excluding states of the Union: District of Columbia, territories and possessions of the United States.	The 50 states, harbors, ports of entry for imports
6	Revenue Collection Agency	Internal Revenue Service (IRS)	U.S. Customs (Dept. of the Treasury)
7	Authority for collection within the Internal Revenue Code	Subtitle A: Income Taxes Subtitle B: Estate and Gift taxes Subtitle C: Employment taxes Subtitle E: Alcohol, Tobacco, and Certain Other Excise Taxes	Subtitle D: Miscellaneous Excise Taxes
8	Revenue collection applies to	1. "Public officials" engaged in a "trade or business" as defined in 26 U.S.C. §7701(a)(26). 2. "U.S. persons" under 26 U.S.C. §7701(a)(30) living abroad in receipt of federal payments as described in 26 U.S.C. §911.	Federal corporations involved in foreign commerce
9	Taxable "activities"	1. "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26), conducted within the statutory "United States**" (federal zone) which is defined as the "United States" in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). 2. Transfer of property from people who died in the federal zone to their heirs (I.R.C. Subtitle B).	Foreign Commerce under 26 U.S.C. §7001 and Constitution Article 1, Section 8, Clause 3.
10	Revenues pay for	Socialism/communism	Protection of states of the Union, including military, courts, and jails.
11	Revenue collection functions like	Municipal/state government income tax	Federal tax on foreign commerce
12	Definition of the term "United States" found in	1. 26 U.S.C. §7701(a)(9) and (a)(10) 2. 26 U.S.C. §3121(e)	26 U.S.C. §4612
13	Example "taxes"	1. W-4 withholding on federal "employees" 2. Estate taxes 3. Social security 4. Medicare 5. Alcohol, tobacco, and firearms	Taxes on imported fuels

		Legislative jurisdiction	
#	Description	"National government" of the District of Columbia	"Federal government" of the states of the Union
		under U.S.C. Title 27	
14	Applicable tax forms	Forms 941, 1040, 1040NR, 1120, W-2, W-4	Form CF 6084 (customs bill)

The "plenary" jurisdiction described above means exclusive sovereignty which is not shared by any other sovereignty and which is exercised over territorial lands owned by or ceded to the federal government under Article 1, Section 8, Clause 17 of the Constitution. Here is a cite that helps confirm what we are saying about the "plenary" word above:

> *"In dealing with the meaning and application of an act of Congress enacted in the exercise of its **plenary power under the Constitution to tax income and to grant exemptions from that tax [in its own territories and possessions ONLY but NOT in the states of the Union]**, it is the will of Congress which controls, and the expression of its will, in the absence of language evidencing a different purpose, should be interpreted 'so as to give a uniform application to a nation-wide scheme of taxation'. Burnet v. Harmel, 287 U.S. 103, 110 , 53 S.Ct. 74, 77. Congress establishes its own criteria and the **state law may control [in federal territories and possessions] only when the federal taxing act by express language or necessary implication makes its operation dependent upon state law**. Burnet v. Harmel, supra. See Burk-Waggoner Oil Association v. Hopkins, 269 U.S. 110, 111 , 114 S., 46 S.Ct. 48, 49; Weiss v. Wiener, 279 U.S. 333 , 49 S.Ct. 337; Morrissey v. Commissioner, 296 U.S. 344, 356 , 56 S.Ct. 289, 294. Compare Crooks v. Harrelson, 282 U.S. 55, 59 , 51 S.Ct. 49, 50; Poe v. Seaborn, 282 U.S. 101, 109 , 110 S., 51 S.Ct. 58; Blair v. Commissioner, 300 U.S. 5, 9 , 10 S., 57 S.Ct. 330, 331."*
> *[Lyeth v. Hoey, 305 U.S. 188, 59 S. Ct 155 (1938)]*

Why is such jurisdiction "plenary" or "exclusive"? Because all those who file IRS Form 1040 returns implicitly consent to be treated as "virtual residents" of the federal zone, over which Congress has exclusive legislative jurisdiction under Article 1, Section 8, Clause 17 of the Constitution!:

> *TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.*
> *Sec. 7701. – Definitions*
>
> *(a)(39) Persons residing outside [the federal] United States*
>
> *If any **citizen or resident of the United States** does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to -*
>
> *(A) jurisdiction of courts, or*
> *(B) enforcement of summons.*

Because kidnapping is illegal under 18 U.S.C. §1201, people living in states of the Union subject to the provisions above must be volunteers and must explicitly consent to participate in federal taxation by filling out the WRONG tax form, which is the 1040, and signing it under penalty of perjury. The *IRS Published IRS Products Catalog, Document 7130, Year2003* confirms that those who file IRS Form 1040 do indeed declare themselves to be "citizens or residents of the [federal] United States", which is untrue for the vast majority of Americans:

> *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]*

If American Nationals living in the states of the Union would learn to file with their correct status using the form 1040NR as "nationals" and "nonresident aliens", then most Americans wouldn't owe anything under the provisions of 26 U.S.C. §871(a) ! The U.S. Congress and their IRS henchmen have become "sheep poachers", where you, a person living in state of the Union and outside of federal legislative jurisdiction, are the "sheep". They are "legally kidnapping" people away

from the Constitutional protections of their domicile within states using deceptive forms so that they volunteer into exclusive federal jurisdiction.

Notice the use of the term "nation-wide" in the *Lyeth* case above, which we now know means the "national government" in the context of its jurisdiction over federal territories, possessions, and the District of Columbia and which excludes states of the Union. They are just reiterating that federal jurisdiction over the federal zone is "exclusive" and "plenary" and that state law only applies where Congress consents to delegate authority, under the rules of "comity", to the state relating to taxing matters over federal areas within the exterior limits of a state.

> ***"comity***. *Courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out of deference and good will. Recognition that one sovereignty allows within its territory to the legislative, executive, or judicial act of another sovereignty, having due regard to rights of its own citizens. Nowell v. Nowell, Tex.Civ.App., 408 S.W.2d. 550, 553. In general, principle of "comity" is that courts of one state or jurisdiction will give effect to laws and judicial decisions of another state or jurisdiction, not as a matter of obligation, but out of deference and mutual respect. Brown v. Babbitt Ford, Inc., 117 Ariz. 192, 571 P.2d. 689, 695. See also Full faith and credit clause."*
> *[Black's Law Dictionary, Sixth Edition, p. 267]*

An example of this kind of "comity" is the Buck Act, 4 U.S.C. §§110-113, in which 4 U.S.C. §106 delegates authority to federal territories and possessions, but not states of the Union, to tax areas within their boundaries subject to exclusive federal jurisdiction. That jurisdiction then is mentioned in the context of 5 U.S.C. §5517 as applying ONLY to federal "employees".

The above table is confirmed by the Supreme Court in the case of *Downes v. Bidwell*, which said on the subjects covered by the table:

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

> *"****There could be no doubt as to the correctness of this conclusion, so far, at least, as it applied to the District of Columbia****. This District had been a part of the states of Maryland and [182 U.S. 244, 261] Virginia. It had been subject to the Constitution, and was a part of the United States[***].* ***The Constitution had attached to it irrevocably.*** ***There are steps which can never be taken backward.*** ***The tie that bound the states of Maryland and Virginia to the Constitution could not be dissolved, without at least the consent of the Federal and state governments to a formal separation. The mere cession of the District of Columbia to the Federal government relinquished the authority of the states, but it did not take it out of the United States or from under the aegis of the Constitution. Neither party had ever consented to that construction of the cession. If, before the District was set off, Congress had passed an unconstitutional act affecting its inhabitants, it would have been void.*** *If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly, by carving out the District, what it could not do directly. The District still remained a part of the United States, protected by the Constitution. Indeed, it would have been a fanciful construction to hold that territory which had been once a part of the United States ceased to be such by being ceded directly to the Federal government."*

[. . .]

*"Indeed, the practical interpretation put by Congress upon the Constitution has been long continued and uniform to the effect [182 U.S. 244, 279] that **the Constitution is applicable to territories acquired by purchase or conquest, only when and so far as Congress shall so direct.** Notwithstanding its duty to 'guarantee to every state in this Union a republican form of government' (art. 4, 4), by which we understand, according to the definition of Webster, 'a government in which the supreme power resides in the whole body of the people, and is exercised by representatives elected by them,' Congress did not hesitate, in the original organization of the territories of Louisiana, Florida, the Northwest Territory, and its subdivisions of Ohio, Indiana, Michigan, Illinois, and Wisconsin and still more recently in the case of Alaska, to establish a form of government bearing a much greater analogy to a British Crown colony than a republican state of America, and to vest the legislative power either in a governor and council, or a governor and judges, to be appointed by the President. It was not until they had attained a certain population that power was given them to organize a legislature by vote of the people. In all these cases, as well as in territories subsequently organized west of the Mississippi, Congress thought it necessary either to extend to Constitution and laws of the United States over them, or to declare that the inhabitants should be entitled to enjoy the right of trial by jury, of bail, and of the privilege of the writ of habeas corpus, as well as other privileges of the bill of rights."*
[Downes v. Bidwell, 182 U.S. 244 (1901)]

7 Definition of "employee" within the U.S. Code and Implementing Regulations

The term "employee" is defined as follows within the I.R.C. and the underlying Treasury Regulations which implement it:

26 U.S.C. Sec. 3401(c) Employee

For purposes of this chapter, the term "employee" includes [is limited to] an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

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26 CFR §31.3401(c)-1 Employee:

*"...the term [employee] includes officers and employees, whether elected or appointed, **of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing**. The term 'employee' also includes an **officer of a corporation**."*

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8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267

***Employee**: "The term employee **specifically includes** officers and employees **whether elected or appointed**, of the United States, a state, territory, or political subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing."*

All of the above definitions have one thing in common: They all describe an elected or appointed officer of the United States government and do not explicitly include anyone other than these groups. We could find no definition of "employee" that does not include an elected or appointed officer of the United States who took a constitutional oath. When public servants are confronted with the above definitions, the only defense we have seen coming from anyone in government is to point to the use of the word "includes" appearing in the above definitions, and then to point to the definition of includes in 26 U.S.C. §7701(c) and say that the above definitions "assume" or "presume" the addition of the common definition of the word. This is clearly a violation of due process of law. We discuss why this is later in section 13. This pitiful rationalization in defense of what amounts to illegal and unconstitutional organized extortion and theft is also exhaustively and authoritatively rebutted in the free pamphlet available below:

Meaning of the Words "includes" and "including", Form #05.014
http://sedm.org/Forms/FormIndex.htm

The term "employee" is also defined in Title 5 of the U.S. Code as follows. Note that all the parties described are "officers", meaning "public officers", of the government and not what most people would consider an "employee" in an ordinary or common law sense:

TITLE 5 > PART III > Subpart A > CHAPTER 21 > § 2105
§2105. Employee

*(a) For the purpose of this title, "employee", except as otherwise provided by this section or when specifically modified, means **an officer and an individual** who is—*
(1) appointed in the civil service by one of the following acting in an official capacity—
(A) the President;
(B) a Member or Members of Congress, or the Congress;
(C) a member of a uniformed service;
(D) an individual who is an employee under this section;
(E) the head of a Government controlled corporation; or
(F) an adjutant general designated by the Secretary concerned under section 709 (c) of title 32;
(2) engaged in the performance of a Federal function under authority of law or an Executive act; and
(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

Notice the underlined and highlighted portion above, which implies that you cannot be an "employee" without ALSO being an "individual". This is also consistent with what the U.S. Supreme Court held on this very subject:

*"All the powers of the government [including nearly all of its civil enforcement powers against the public] must be carried into operation **by individual agency, either through the medium of public officers, or contracts made with [private] individuals.**"*
[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]

We also add to the above that your right to contract is the origin of all the powers of the government because you also cannot become a "public officer" without contracting with the government. Your consent or agreement to occupy a public office, in fact, is the action which creates the "individual" who is the subject of all federal legislation and also the "taxpayer" who is the main subject of the Internal Revenue Code.

The "individual" described in 5 U.S.C. §2105 earlier and by the U.S. Supreme Court above is *the* office or "public office", and not the human being who fills it. That "individual" is:

1. The *same* "individual" defined in 5 U.S.C. §552a(a)(2) (the Privacy Act) as a statutory "U.S. citizen" or a statutory "resident" (alien) with a domicile on federal territory that is no part of a state of the Union.

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a
§ 552a. Records maintained on individuals

(a) Definitions.— For purposes of this section—

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

2. The *same* individual described in block 3 of the IRS Form W-8BEN. See:
About IRS Form W-8BEN, Form #04.202
http://sedm.org/Forms/FormIndex.htm
3. The *same* "individual" mentioned in the title of IRS Form 1040 at the top: "U.S. **Individual** Income Tax Return".
4. The *same* "individual" defined in 26 CFR §1.1441-1(c)(3) and mentioned in 26 U.S.C. §7701(c) within the definition of "person".
5. The *same* "individual" that appears at the end of the phrase "nonresident alien individual" appearing in 26 CFR §1.6012-1(b), in which "nonresident alien individuals" but not "nonresident aliens" who are NOT "individuals", are made liable to file a return. Therefore, a "nonresident alien individual" can only be a "resident alien" who made an election pursuant to 26 U.S.C. §6013(g) and (h) to be treated as a "resident alien" because married to a statutory "U.S. citizen". Such an election is FORBIDDEN in the case of a person domiciled in a state of the Union who is a national but not an alien because you cannot be a statutory "U.S. citizen" and a "resident" (alien) at the same time.
6. The "person" defined in 26 U.S.C. §6671(b) and 26 U.S.C. §7343, both of whom are public officers within the government and are the only proper subjects for IRS penalties and criminal enforcement.

When you sign an IRS Form W-4, 26 CFR §31.3401(a)-3(a) and 26 CFR §31.3402(p)-1 both indicate that you are signing a contract to:

1. Treat all your earnings as "wages" as legally defined but not commonly understood.

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

(a) In general.

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

(b) Remuneration for services.

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

2. Treat your earnings as "gross income" that must be included on a tax return.

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

(a) In general.

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

3. Consent to be a "resident alien" with a domicile on federal territory. 26 CFR §1.1-1(a)(2)(ii) and 26 CFR §1.1441-1(c)(3) both indicate that all "taxpayers" are "resident aliens" with a domicile on federal territory.
4. Donate your formerly private earnings to a public use", a "public purpose", and a "public office" in order to procure the benefits of the office, such as tax deductions (e.g. "trade or business deductions") found in 26 U.S.C. §162, earned income credits found in 26 U.S.C. §32, and a graduated (reduced) rate of tax found in 26 U.S.C. §1.

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

In addition, the IRS would also have you believe the following FALSE presumptions about the affect of signing IRS Form W-4:

1. You agreed to represent a "public office" within the U.S. government and accept all the obligations of the office. After all, signing form W-4 gives the "employer" permission to file W-2 information returns against you, which 26 U.S.C. §6041(a) says can only be filed for persons lawfully engaged in a "trade or business", which 26 U.S.C. §7701(a)(26) defines as a "public office".
2. You became the "employee" of the federal and not state government as indicated above, even if you were not previously a federal "employee" as legally defined.
3. You became an "individual" who is described above within federal law.

The above FALSE presumptions of the IRS are unlawful because:

1. No tax form authorizes or can authorize the CREATION of any new public offices in the U.S. government. The I.R.C. can only authorize the taxation of EXISTING public offices. It is absolutely ludicrous to conclude that anyone can lawfully use a tax form as a federal election form to "elect" themselves into public office. This would be a crime in violation of 18 U.S.C. §912.
2. IRS Form W-4 cannot lawfully be used as a method of hiring new federal "employees". The standard hiring process has to be followed universally for all federal "employees".
3. You can't become a "resident" of a place that you never physically resided at. That place is the statutory "United States*" (federal zone), which defined as in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). If you don't physically live there at the time, you can't contract to become a "resident" if you aren't physically there or haven't ever been physically there. Therefore, it is fraudulent to call yourself an "individual". The only way you can become an "individual" is to physically reside there at one point and select a domicile in that place.
4. 4 U.S.C. §72 says that all public offices MUST be exercised ONLY in the District of Columbia and not elsewhere. There is no provision within the I.R.C. that authorizes or can authorize any public office to be exercised within the exclusive or general jurisdiction of any state of the Union. If you are not performing your duties as a federal "public officer" and federal W-4 contractor while within the District of Columbia, then you are serving unlawfully:

> *"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*
>
> ***But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature.** The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. **Congress cannot authorize [e.g. license or permit] a trade or business within a State in order to tax it.**"*
> *[License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]*

8 "trade or business"="public office"

Subtitle A of the Internal Revenue Code imposes a tax upon three distinct groups. These are:

1. Public employees domiciled in the federal zone and residing there: The tax imposed in 26 U.S.C. §1 against those domiciled in the federal zone engaged in a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26). This includes:
   1.1. "U.S. citizens" who are described in 8 U.S.C. §1401 as persons born in the federal zone. See: http://sedm.org/Forms/MemLaw/WhyANational.pdf
   1.2. "residents" who are all aliens and foreign nationals domiciled in our country.
2. Public employees domiciled in the federal zone and traveling overseas: The tax is imposed under 26 U.S.C. §911 upon those domiciled in the federal zone who are traveling temporarily overseas and fall under a tax treaty The tax applies only to "trade or business" income which is recorded on an IRS Form 1040 and 2555. See also the Supreme Court case of *Cook v. Tait*, 265 U.S. 47 (1924).
3. Nonresident aliens receiving government payments: The tax imposed under 26 U.S.C. §871 on nonresident aliens with government income that is:
   3.1. Not connected with a "trade or business" under 26 U.S.C. §871(a) but originates from the federal zone.
   3.2. Connected with a "trade or business" under 26 U.S.C. §871(b).

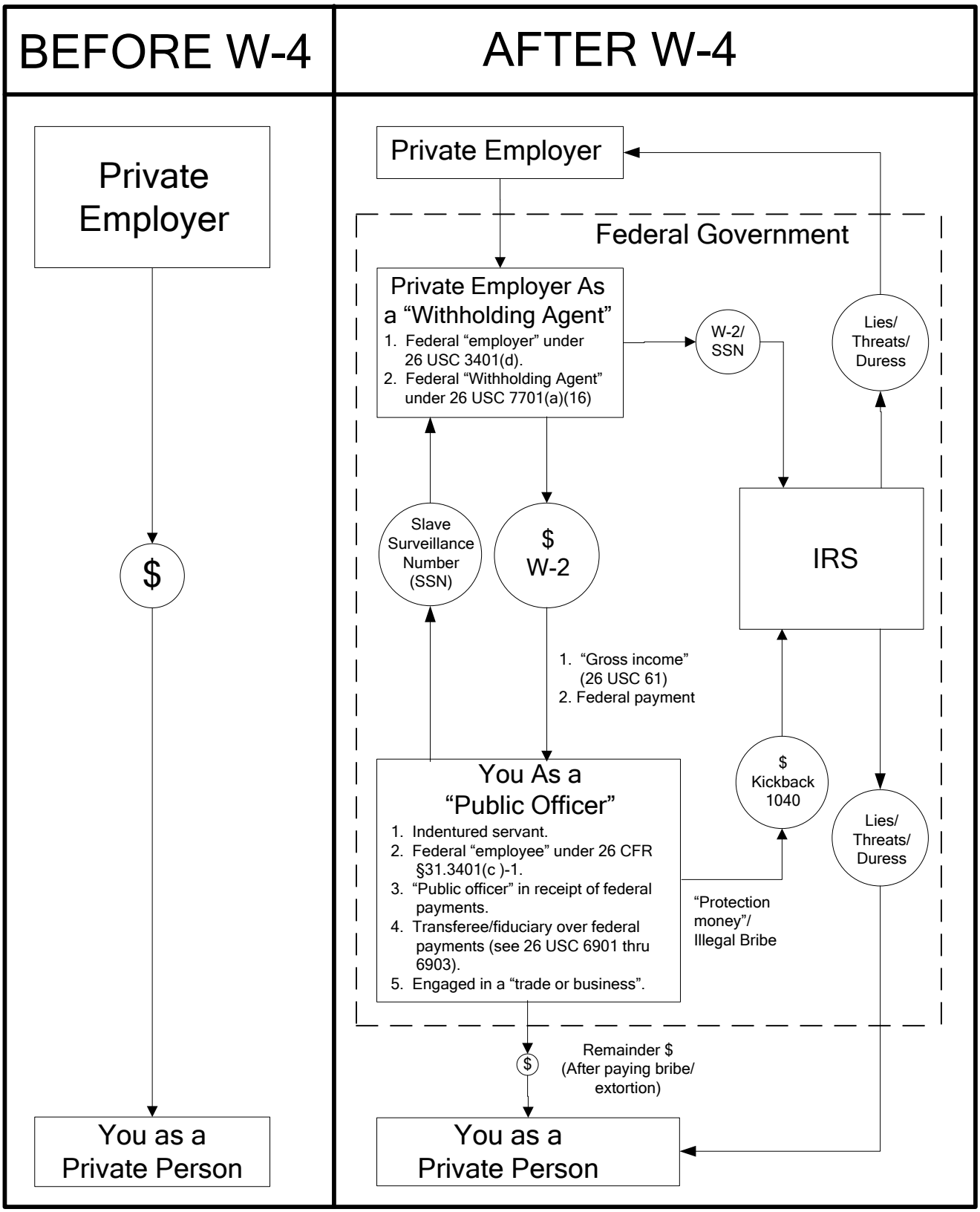
Those engaged in a "trade or business":

1. Must be federal "employees" and "public officers" under 26 CFR §31.3401(c)-1 and "subcontractors" for the federal government.

2. Are acting in a representative capacity for the federal corporation called the "United States" defined in 28 U.S.C. §3002(15)(A) and therefore are subject to the laws where the corporation was incorporated under Federal Rule of Civil Procedure 17(b), which is the District of Columbia.
3. Are completely subject to federal jurisdiction without the need for implementing regulations published in the Federal Register, as revealed under 44 U.S.C. §1505(a)(1) , 5 U.S.C. §552(a)(1) , and 5 U.S.C. §553(a)(2).
4. Are subject to penalties and the criminal provisions of the Internal Revenue Code while acting as "public officers". Both 26 U.S.C. §6671(b) and 26 U.S.C. §7343 define "person" as an officer of a corporation, and that corporation is the federal government, which is defined in 28 U.S.C. §3002(15)(A) as a federal corporation.
5. Are withholding agents who are liable under 26 U.S.C. §1461, because they are nonresident aliens who must withhold federal kickbacks and send them to the IRS.
6. Are "transferees" and "fiduciaries" over federal payments under 26 U.S.C. §§6901 and 6903.

A picture is worth a thousand words. Below is a diagram showing the condition of those who are employed by private employers and who have consented to participate in the federal tax system by completing a W-4. This diagram shows graphically the relationships established by filling out the W-4 and signing it under penalty of perjury.

Figure 1: Employment arrangement of those involved in a "trade or business"



NOTES ON ABOVE DIAGRAM:

1. The I.R.C. Subtitle A income tax is NOT implemented through public law or positive law, but primarily through private law. Private law always supersedes enacted positive law because no court or government can interfere with your right to contract. See Article 1, Section 10 of the Constitution for the proof. The W-4 is a contract, and the United States has jurisdiction over its own property and employees under Article 4, Section 3, Clause 2, wherever they may reside, including in places where it has no legislative jurisdiction. The W-4 you signed is a private contract that makes you into a federal employee, and neither the state nor the federal government may interfere with the private right to contract. 26 CFR §31.3402(p)-1 identifies the W-4 as an "agreement", which is a contract. It doesn't say that on the form, because your covetous government doesn't want you to know you are signing a contract by submitting a W-4.
2. The "tax" is not paid by you, but by your "straw man", who is a federal "public officer" engaged in a "trade or business" as defined in 26 U.S.C. §7701(a)(26). His workplace is the "District of Columbia" under 26 U.S.C. §7701(a)(39), 26 U.S.C. §7408(d), and Federal Rule of Civil Procedure 17(b). That "public officer" you have volunteered to represent is working as a federal "employee" who is part of the United States government, which is defined as a federal corporation in 28 U.S.C. §3002(15)(A). In that sense, the "tax" is indirect, because you don't pay it, but your straw man, who is a "public officer", pays it to your "employer", the federal government, which is a federal corporation.
3. Because you are a federal "employee" and you work for a federal corporation, then you are acting as an "officer or employee of a federal corporation" and you:
   3.1. Are the proper subject of the penalty statutes, as defined under 26 U.S.C. §6671(b).
   3.2. Are the proper subject of the criminal provisions of the Internal Revenue Code found in 26 U.S.C. §7343.
   3.3. May have the code enforced against you without implementing regulations as required by 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2)
4. The "activity" of performing a "trade or business" is only "taxable" when executed in the statutory "United States**" (federal zone), which is defined as in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). See 26 U.S.C. §864 and this section for evidence.
5. Those who file form 1040 instead of the proper form 1040NR provide evidence under penalty of perjury that they are statutory "U.S. persons" (see 26 U.S.C. §7701(a)(30)) who are domiciled in the statutory "United States**" (federal zone). The IRS Published Products Catalog, Document 7130 says the form can only be used for "citizens or residents" of the statutory "United States**" (federal zone).

If you would like to know more about the above diagram and the details behind what a "trade or business" is, please consult the following memorandum of law:

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

If you are a "nonresident alien" with no income originating from the statutory "United States**" (federal zone) under 26 U.S.C. §871, then you aren't even mentioned in the I.R.C. as a subject for any Internal Revenue tax. It was shown starting in section 4.11 of the *Great IRS Hoax* book that nearly all Americans living in states of the Union are "nonresident aliens", and so the above provision must apply to you, folks. To summarize the findings of this section then, those who are "nonresident aliens" with no "sources of income" connected with a public office (which is defined as a "trade or business" in 26 U.S.C. §7701(a)(26)) in the District of Columbia and who never signed a W-4:

1. Are not engaged in an excise taxable activity under the I.R.C. subtitle A.
2. May not lawfully have any Information Returns, such as a W-2, 1098, or 1099 filed against them. See:
   2.1. *Correcting Erroneous IRS Form 1042's*, Form #04.003
   http://sedm.org/Forms/FormIndex.htm
   2.2. *Correcting Erroneous IRS Form 1098's*, Form #04.004
   http://sedm.org/Forms/FormIndex.htm
   2.3. *Correcting Erroneous IRS Form 1099's*, Form #04.005
   http://sedm.org/Forms/FormIndex.htm
   2.4. *Correcting Erroneous IRS Form W-2's*, Form #04.006
   http://sedm.org/Forms/FormIndex.htm
3. Don't earn any "gross income":

Title 26: Internal Revenue
PART 1—INCOME TAXES
nonresident alien individuals
§ 1.872-2 Exclusions from gross income of nonresident alien individuals.

(f) Other exclusions. ***Income which is from sources without[outside] the United States [federal zone, see 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d)], as determined under the provisions of sections 861 through 863, and the regulations thereunder, is not included in the gross income of a nonresident alien individual unless such income is effectively connected for the taxable year with the conduct of a trade or business in the United States by that individual.*** *To determine specific exclusions in the case of other items which are from sources within the United States, see the applicable sections of the Code. For special rules under a tax convention for determining the sources of income and for excluding, from gross income, income from sources without the United States which is effectively connected with the conduct of a trade or business in the United States, see the applicable tax convention. For determining which income from sources without the United States is effectively connected with the conduct of a trade or business in the United States, see section 864(c)(4) and §1.864–5.*

4. Their entire estate is a "foreign estate" under 26 U.S.C. §7701(a)(31) not subject to the I.R.C.

TITLE 26 > Subtitle F > CHAPTER 79 > § 7701
§ 7701. Definitions

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

(31) Foreign estate or trust

(A) Foreign estate

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

5. Are a "nontaxpayer" not subject to the I.R.C. All portions within the I.R.C., IRS publications, and the Internal Revenue Manual that refer to "taxpayers" ***don't*** refer to you and can safely be disregarded and disobeyed.

"Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government]. 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 F2d. 585 (1972)]

6. If any money was withheld from your pay by either a business or a financial institution, then you are due for a refund of ***all*** withholding.
7. Cannot file an IRS Form 1040, because EVERYTHING that goes on that form is treated as "effectively connected with a trade or business". That form is for "aliens", and not "nonresident aliens", as was shown in section 5.5.2 of the ***Great IRS Hoax***.
8. Cannot lawfully have any CTR's, or "Currency Transaction Reports", prepared against you by any financial institution for withdrawals in excess of $10,000. Only those "effectively connected with a trade or business in the United States" can be the proper subject of CTR's. See: http://famguardian.org/Subjects/MoneyBanking/Articles/FedTransReptnRequirements.htm
9. Cannot be the subject of federal jurisdiction in the context of Subtitle A of the I.R.C.
10. Cannot be treated as a federal "employee".
11. Cannot lawfully be penalized or criminally prosecuted by the IRS for failure to volunteer to participate in the federal tax system.

Based on the above table, ALL of the revenues collected by the IRS under the authority of Subtitle A only apply within the federal zone and are simply donations, not lawful "taxes" for people in states of the Union who are not federal "employees". In particular, Subtitle A of the Internal Revenue Code applies ONLY within the statutory "United States**" (federal zone), as is revealed by the definition of "United States" found in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C.

§110(d). The IRS has been involved in criminal extortion in the case of persons domiciled in states of the Union who are not engaged in a "trade or business" because they are:

1. Deliberately and systematically deceiving Americans about the requirements of the I.R.C. using their publications, as was shown in section 3.18 of the *Great IRS Hoax*. They are doing so by not explaining what "United States" means in their publications and by not emphasizing that Subtitle A of the Internal Revenue Code is entirely voluntary and not a "tax", but a donation. They also are trying to make most Americans falsely believe that the two jurisdictions identified above are equivalent, and that all Americans living in states of the Union are "citizens of the United States" or "residents" under federal law, when in fact they are not. Americans who make false statements on their tax returns go to jail for 3 years minimum, but the I.R.S. does it with impunity every day in their publications and the federal judiciary refuses to hold them accountable for this constructive fraud.
2. Applying Subtitles A through C of the Internal Revenue Code to persons in states of the Union over which they have no jurisdiction.
3. Are enforcing I.R.C. Subtitle A against other than federal "employees". There are no implementing regulations authorizing enforcement against other than federal "employees" as required by 44 U.S.C. §1505(a)(1), 26 CFR §601.702(a)(2)(ii), and 5 U.S.C. §553(a)(2).
4. Enforcing that which is not "law" for that specific group and is therefore unenforceable. The Internal Revenue Code is not "law" for "nontaxpayers", as you will find out later in section 5.4.3 of the *Great IRS Hoax*, Form #11.302, and therefore may not be enforced against anyone absent explicit, informed, voluntary consent. This consent is what makes them subject to it and "taxpayers".

9 The Buck Act, 4 U.S.C. §111: State taxation ONLY over federal "officers and employees"

The Buck Act of 1940, which is the sole authority for state income taxation in most states, authorizes state taxation ONLY over federal "officers and employees". Here is the text of the statute:

> *TITLE 4 > CHAPTER 4 > § 111*
> *§ 111. Same; taxation affecting Federal employees; income tax*
>
> *(a) General Rule.— **The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation.***
>
> *(b) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Columbia River.— Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—*
>
> *(1) which is owned by the United States;*
>
> *(2) which is located on the Columbia River; and*
>
> *(3) portions of which are within the States of Oregon and Washington,*
>
> *shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.*
>
> *(c) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Missouri River.— Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—*
>
> *(1) which is owned by the United States;*
>
> *(2) which is located on the Missouri River; and*
>
> *(3) portions of which are within the States of South Dakota and Nebraska,*

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

[Emphasis added]

Because state revenue agencies know this is shaky legal ground to proceed against a sovereign American in a state who is not in fact and indeed a federal "officer or employee", then these same states go out of their way to make sure that they never mention in their collection notices that this is in fact their authority. Instead, they simply ask you for money and refuse to indicate on their collection notice:

1. The statute making you liable to pay the alleged "tax".
2. The excise taxable activity you were involved in that made you liable. In most cases, this activity would be a "trade or business" which is statutorily defined as a "public office" in 26 U.S.C. §7701(a)(26).
3. What evidence they have proving that you had excise taxable "income", such as providing the original bogus W-2 or 1099 forms that created the prima facie "presumption" that you received "gross income" as a federal "employee".
4. Refuse to help, explain, or respond to your questions, even though in most cases this is required by their own internal regulations. They do this so you have to essentially play a game of "chicken" and see who is bolder in standing up for their rights. Persons who have been dumbed down in the government/public schools are no match for this kind of tyranny, and will usually cave in and just pay the money, even though they aren't legally required to. The public schools are there to "manufacture" good sheep, not people who can think independently for themselves and who don't need or want government in their lives.

All of the above constitute a very deliberate "smoke screen" to cover up what the state attorneys general undoubtedly know is a monumental fraud upon the public. You can confirm the above conclusion yourself by examining our state response letter page and examining collection notices from most of the states in the Union to confirm the truth of what we say here:

http://sedm.org/SampleLetters/States/StateRespLtrIndex.htm

To fully implement the above provision, the federal government has also passed a statute under Title 5 of the U.S. Code that authorizes "States" to enter into an agreement with the Secretary of the Treasury which authorizes them to implement tax withholding. You will note that the title of Title 5 of the U.S. Code is "TITLE 5-GOVERNMENT ORGANIZATION AND EMPLOYEES", which means that this code section can only apply to federal "officers and employees". Here is the text of this statute:

TITLE 5 > PART III > Subpart D > CHAPTER 55 > SUBCHAPTER II > § 5517
§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting "who are residents of the State with which the agreement is made" for "whose regular place of Federal employment is within the State with which the agreement is made".

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, "State" means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms "serve as a member of the armed forces" and "service as a member of the Armed Forces" include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve.

The agreement they are referring to above is called an "ACTA" agreement, which stands for "Agreement on Coordination of Tax Administration". This is an agreement between the governor and the attorney general of a "State" and the Secretary of the Treasury of the United States which authorizes the "State" to collect income taxes from federal "officers employee". The problem with the above statute is that it doesn't apply within anyplace OTHER than "federal areas" within the exterior limits of a "State", and that the "State" they are referring to is a Territory of the United States and NOT a state of the Union. This is confirmed by the definition of "State" in the context of the Buck Act:

TITLE 4 > CHAPTER 4 > § 110
§ 110. Same; definitions

(d) The term "State" includes any Territory or possession of the United States

As a consequence, the Buck Act and all federal and "State" withholding of personal income taxes can ONLY apply to federal "officers and employees" and not generally to all private citizens or private employment. This is also confirmed by the IRS' Internal Revenue Manual, which says on this subject the following:

IRM 5.14.10.2 (09-30-2004)
Payroll Deduction Agreements

*2. **Private employers, states, and political subdivisions are not required to enter into payroll deduction agreements**. Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.*

[http://www.irs.gov/irm/part5/ch14s10.html]

Because public "servants" in states of the Union know that people won't pay state income taxes if they knew about the existence of these ACTA agreements and the nature of the imputed "tax" that was being collected, then both the state revenue agencies and the IRS try to cover up their fraud and thereby perpetuate their unscrupulous and devious defense of "plausible deniability" as follows:

1. Have conveniently removed copies of these agreements from their website.
2. Refuse repeated requests under the Freedom of Information Act (FOIA), 5 U.S.C. §552, for copies of these agreements, without explanation or response.
3. Refuse to mention that these agreements are their sole authority for instituting income tax collection on their collection notice. If you ask them about this in response to their collection notice, they usually ignore but don't refute you because they don't want to destroy the flow of effectively STOLEN money to their treasuries. It is money acquired through constructive fraud, omission, and gross malfeasance.

We also note that it is a violation of the Separation of Powers Doctrine for a state of the Union to behave as a federal "territory" in the context of all persons under its care who are not in fact and in deed resident or domiciled in federal areas within the exterior limits of the state. Please see the following for further details on this scam:

Separation of Powers Doctrine
http://famguardian.org/Subjects/LawAndGovt/Articles/SeparationOfPowersDoctrine.htm

10 Enforcement/Distraint only authorized against federal instrumentalities

The Internal Revenue Code, also called Title 26 of the United States Code, may be freely viewed online at:

http://www4.law.cornell.edu/uscode/html/uscode26/usc_sup_01_26.html

This section and the following subjections will concern itself with the enforcement provisions of the Internal Revenue Code and who the proper audience is for these provisions. We will show that in ALL cases, the only proper audience is federal instrumentalities, employees, and officers, which is consistent with the theme throughout this document that the only proper subject of Subtitle A of the I.R.C. is federal instrumentalities.

10.1 Levies may only be made against federal instrumentalities

The easiest way to figure out who the proper audience for the I.R.C. is consists of looking at the statutes authorizing "distraint". Distraint is defined as the process of enforcing collection:

> ***distraint****: Seizure; the act of distraining or making a distress. The inchoate right and interest which a landlord has in the property of a tenant located on the demised premises. Upon a tenant's default, a landlord may in some jurisdictions distrain upon the tenant's property, generally by changing the locks and giving notice, and the landlord will then have a lien upon the goods. The priority of the lien will depend on local law. See Distress.*
> *[Black's Law Dictionary, Sixth Edition, p. 474]*

Below is the content of 26 U.S.C. §6331, which describes who levies may be instituted against:

> *26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes*
> *Sec. 6331. Levy and distraint*
>
> *(a) Authority of Secretary*
>
> *If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax.* ***Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.*** *If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

So we can see that levy and distraint may only be instituted against federal "employees", or what the Privacy Act, 5 U.S.C. §552a(a)(13) calls "federal personnel". This is not a mistake or oversight, but simply an admission within the law itself of the very limited nature of the revenue scheme documented in Subtitle A of the Internal Revenue Code.

10.2 Penalties under the I.R.C. only apply to federal "employees" and "officers" of federal (not state) corporations[14]

> *"By the blessing of God, may our country become a vast and splendid monument, not of oppression and terror, but of wisdom, of peace, and of liberty upon which the world may gaze with admiration forever."*
> *[First Bunker Hill Oration, Daniel Webster. Inscribed on a bronze plaque on the quarterdeck of the USS Bunker Hill, CG-52]*

The Congress and the 50 state governments are prohibited by the Constitution from imposing any kind of punishment or penalty against natural persons without a judicial proceeding. This includes financial penalties associated with ensuring compliance with the Internal Revenue Code. This requirement derives from the U.S. Constitution, which in Article 1, Section 9, Clause 3 prevents Congress from passing any kind of Bill of Attainder law. Likewise, Article 1, Section 10 applies the same requirement to the 50 Union states. Below is the Constitutional restriction:

> *Article 1, Section 9, Clause 3: "No Bill of Attainder or ex post facto Law shall be passed." (with respect to the U.S. Congress)*

[14] Adapted from section 5.4.11 of the *Great IRS Hoax*.

> *Article 1, Section 10, Clause 1: "No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."*

Below is the definition of a Bill of Attainder for your reference:

> *Bill of attainder: **Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial**. United States v. Brown, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett, 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 death and a "bill of pains and penalties" when the punishment is less sever; **both kinds of punishment fall within the scope of the constitutional prohibition. U.S.Const. Art. I, Sect 9, Cl. 3 (as to Congress);' Art. I, Sec, 10 (as to state legislatures).***
> *[Black's Law Dictionary, Sixth Edition, p. 1185, Emphasis added]*

The above restrictions form the basis of why the U.S. Congress and the states cannot write statutes and the executive branch cannot write implementing regulations authorizing the IRS to impose financial penalties on natural persons for noncompliance with Subtitle A income taxes absent a judicial trial, nor can they collect any penalties without a trial. The following easily verifiable facts prove our point:

- That *there is no implementing CFR or Federal Register regulation* providing IRS with the authority to assess any kind of financial penalties, including late payment fees, frivolous return fees, etc.
- *The definition of "person" found in Subtitle F also confirms that penalties may not be applied against natural persons*. In fact, all such penalties are ***only*** applicable to Title 27 taxes relating to Alcohol, Tobacco, and Firearms against corporations under Subtitles D and E!

Whenever the government seeks to impose penalties for violations of the Internal Revenue Code, they have the burden of proof to show that the person against whom the penalty is imposed is liable for the penalty:

> *26 U.S.C. §6703*
>
> *(a) BURDEN OF PROOF.—*
>
> *In any proceeding involving the issue of whether or not any person is liable for a penalty under 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary."*

Most IRS agents are made blissfully unaware of the above facts by their supervisors but they are nevertheless true. You will never hear IRS admit to this, because it is their most important and most secret weapon against the vast majority of Americans, who are natural persons. By way of example, below is the section right out of their own regulations found at the government's own website at http://frwebgate.access.gpo.gov/cgi-bin/getcfr.cgi?TITLE=26&PART=301&SECTION=6671-1&YEAR=2000&TYPE=TEXT that describes the ONLY persons who can be assessed penalties related to I.R.C. Subtitle A income taxes:

> *TITLE 26--INTERNAL REVENUE*
> *Additions to the Tax and Additional Amounts--Table of Contents*
> *Sec. 301.**6671-1** Rules for application of assessable penalties.*
>
> *(b) Person defined.*
>
> *For purposes of subchapter B of chapter 68, **the term ``person'' includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.***

Even more interesting, is that the above not only doesn't apply to most Americans: It also doesn't apply to most corporations or partnerships either! Why?…because the corporations or partnerships mentioned above must be registered in the *District of Columbia* (the federal zone). State-(only) chartered corporations or partnerships that aren't involved in

foreign commerce aren't liable for IRS penalties because they aren't within the territorial jurisdiction of the IRS either. Furthermore, the only type of employee who can be penalized is an employee of a U.S. corporation registered in the District of Columbia and who is involved in reporting and complying with taxes for the corporation, and NOT for himself individually!

10.3 Criminal Provisions of I.R.C. only apply to federal "employees" and "officers" of federal (not state) corporations[15]

26 U.S.C. §7343 defines the legal "person" who may be held criminally liable under the Internal Revenue Code for failure to comply with the code. Below is the content of that statute:

> *26 U.S.C. §7343: Definition of term "person"*
>
> ***Person** - The term "person" as used in this chapter includes an officer or employee of a [federal] 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**.*

Ah...so when a real-live-flesh-and-blood person (known in law as a "natural person") is held accountable for criminal non-compliance with the law, he is held accountable only in his capacity as the officer or employee, ***under a duty to perform,*** on behalf of the "legal fiction" called a corporation. The same kind of constraint also applies to liability for penalties as well, as we explained in the previous section, where we talked about the definition of "person" found in 26 CFR § 301.6671-1. Once again: you are sovereign and the government is the servant and not the master. The only people the government can boss around and abuse in a free country are those who volunteer and consent to such abuse by *volunteering* to receive taxable government privileges as a corporation!

You might then ask, where does the "duty to perform the act" come from for this corporate employee? The *Great IRS Hoax*, Form #11.302, Section 5.6.1 proves that there is no liability statute within the I.R.C. imposing a legal duty to pay the tax, so it must come from somewhere else. The place it comes from, in fact, is the federal employment position you contracted for by signing and submitting the SS-5, W-4, and 1040 forms. This conclusion is proved later in section 12. The federal employment and agency you maintain as a Social Security Trustee is where the fiduciary duty comes from, which is mentioned in 26 U.S.C. §§6901 and 6903. A trustee is a person exercising agency on the part of his employer, which is the Social Security Trust. The trust, in turn, is an "employee" of the federal corporation called the United States government. You as a Social Security trustee and agent are an "officer or employee of a federal corporation", because the United States government identifies itself as a federal corporation under 28 U.S.C. §3002(15)(A). When payments of deferred employment compensation called "Social Security Benefits" are made by the mother corporation, the "United States", they are made not to you as an individual, but to the trust. This is evident by the fact that the payments are made to the All Caps straw man name in association with the Trustee license number, which is the Social Security Number. If you sign the check, you are admitting or consenting that you are acting as a Trustee, and therefore federal "employee".

10.4 Absence of implementing regulations Confirms ONLY proper Enforcement Audience for I.R.C. is Federal instrumentalities[16]

Implementing regulations are the official agency interpretation of the laws passed by Congress in the Statutes at Large. It is the regulations which the agency enforces against the public, not the statute directly. Because of this, all regulations passed by any agency which may adversely affect the general public must be published in the Federal Register before they become enforceable. This is a fundamental requirement of due process of law guaranteed by the Constitution, Fifth Amendment.

Within federal law, regulations are called "rules" and writing of regulations is called "rulemaking". Regulations relating only to officers, employees or agents of the federal government need ***not*** be published in the Federal Register, according to 44 U.S.C. §1505(a).

> *TITLE 44 > CHAPTER 15 > Sec. 1505.*
> *Sec. 1505. - Documents to be published in Federal Register*

[15] Adapted from section 5.4.14 of the *Great IRS Hoax*.

[16] Adapted from sections 3.12 and 3.12.3 of the *Great IRS Hoax*.

(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress.

There shall be published in the Federal Register -

(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;

(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and

(3) documents or classes of documents that may be required so to be published by Act of Congress.

For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.

[Emphasis added]

Notice the phrase above "For the purposes of this chapter, every document or order which prescribes a penalty has general applicability and legal affect". This would include both civil and criminal penalties under the I.R.C., and yet we find NO implementing regulations or even the original statutes themselves which impose criminal or civil penalties, have ever been published in the Federal Register.

The same provision found in 44 U.S.C. §1505(a)(1) above is again repeated in 5 U.S.C. §553(a):

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 553
§ 553. Rule making

*(a) This section applies, according to the provisions thereof, **except to the extent that there is involved**—*
(1) a military or foreign affairs function of the United States; or
(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—
(1) a statement of the time, place, and nature of public rule making proceedings;
(2) reference to the legal authority under which the rule is proposed; and
(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.
Except when notice or hearing is required by statute, this subsection does not apply—
(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or
(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, Sections 556 and 557 of this title apply instead of this subsection.
(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—
(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;
(2) interpretative rules and statements of policy; or
(3) as otherwise provided by the agency for good cause found and published with the rule.
(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.
[Emphasis added]

Note that only a handful of groups are *specifically exempted* from the requirement for publication in the Federal Register of all enforcement provisions within all laws, which are:

1. "A military and foreign affairs function of the United States". 5 U.S.C. §553(a)(1).
2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. §553(a)(2).

3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". 44 U.S.C. §1505(a)(1).

There is a very good reason why implementing regulations that only affect federal employees, contracts, and benefits need not be published in the Federal Register to be enforceable in court. The reason relates to the nature of the Separation of Powers within our Republican government. The Legislature writes all laws, and most of these laws direct the activities of the Executive Branch. Laws passed by Congress in the Legislative Branch essentially amount to a direct and immediate command to its "employees" in the Executive Branch to do certain things. If these commands had to be interpreted by the Executive Branch itself and published as Implementing Regulations in the Federal Register before they would be enforceable against federal workers, then the servant, which is the Executive Branch, could simply go on strike by refusing to write implementing regulations. This would allow the servant, which is the Executive Branch, to routinely disobey its Master, the Legislative Branch, with impunity, resulting in chaos and a dysfunctional government.

Typically, IRS agents who want to deceive you about the very limited extent of their lawful authority will cite you a statute for liability or penalties but cannot give you the implementing regulation, because there aren't any, and this definitely does not satisfy the burden of proof on the agent! The reason there aren't any implementing regulations is because as we say throughout this book, Subtitle A income taxes ONLY apply to elected or appointed officers, or "public officers" of the United States government, and 44 U.S.C. §1505(a) says that implementing regulations aren't required for these people.

In fact, the only people who can be prosecuted for "failure to file" under 26 U.S.C. §7201 are officers and employees of the United States when acting in their *official capacity* as an agent of the government. The federal courts have indirectly confirmed this fact. For instance, here is what one of them said about the fact that there are no implementing regulations for federal tax crimes:

> *"Federal income tax regulations governing filing of income tax returns do not require Office of Management and Budget control numbers because* ***requirement to file tax return is mandated by statute, not by regulation.****" [U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290 (1991), affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659, 507 U.S. 1010, 123 L.Ed.2d. 278]*

What the above court just admitted is that only federal employees, officers, contractors, and benefits recipients, for whom implementing regulations are not required, can be the proper subject of Subtitle A of the Internal Revenue Code. You see how sneaky this is?

All enforcement actions under Subtitle A of the Internal Revenue Code *must* be authorized by an implementing regulation written by the Secretary and published in the Federal Register. Enforcement actions include: 1. Requirement to keep records; 2. Authority to make an assessment of liability; 3. Authority to institute collection actions; 4. Authority to assess penalties. If the IRS attempts an enforcement action that is not specifically authorized by an implementing regulation, then they are acting illegally, and if that unlawful act results in an injury to a private citizen, the IRS agent who did the act can be held personally liable for his tort, is not protected for his wrongdoing by any law, and may not assert sovereign or official immunity as a defense. The act by the Secretary of writing an implementing regulation accomplishes the following:

1. Makes a *specific* agency in the Executive Branch of the government responsible for enforcing and/or executing a *specific* statute.
2. Makes a specific person or role within an agency responsible for a specific function in the execution of the statute.
3. Provides detailed instructions that implement the intent of the statute and which ensure that the statute is carried out in a manner that is consistent with the law and prevailing agency directives and rulings.
4. Gives all persons in the general public who could be adversely affected by the proposed regulation due notice and opportunity to intervene or influence its passage.

The affect of failure to publish implementing regulations authorizing specific enforcement actions is identified in 26 CFR §601.702(a)(2)(ii), and it indicates that the rights of no member of the public at large may be adversely affected by the actions of an agency:

> *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.***

To identify whether a specific regulation has been published in the Federal Register, a citation is required at the bottom of the regulation in accordance with 1 CFR §21.43. Such a citation might look like the following, which is from 26 CFR §601.702. We have bold-faced the Federal Register citation:

> *[32 FR 15990, Nov. 22, 1967]*

The bold-faced text above means volume 32 of the Federal Register, page 15990.

All regulations written by the Secretary of the Treasury ***may not*** exceed the scope or authority of the statute, because the Secretary is ***not authorized*** to write law or legislate:

> *"When enacting §7206(1) Congress undoubtedly knew that the Secretary of the Treasury is empowered to prescribe all needful rules and regulations for the enforcement of the internal revenue laws, so long as they carry into effect the will of Congress as expressed by the statutes. Such regulations have the force of law.* ***The Secretary, however, does not have the power to make law****, Dixon v. United States, supra."*
> *[United States v. Levy, 533 F.2d. 969 (1976)]*

The Secretary is ***only*** authorized under 26 U.S.C. §7805(a) to ***interpret*** and ***apply*** the law as written by Congress in the statutes because that is the limit of his delegated authority. The Federal Register Act, 44 U.S.C. Chapter 15, requires that all regulations that will affect the public at large ***must*** be published in the Federal Register. If the Secretary has written a regulation but ***not*** bothered to publish it in the Federal register, then it may not be applied against the public at large. Every statute or regulation that has been published in the Federal Register will have an authority citation at the end stating so, as required by 1 CFR §21.40 of a form like the following:

> *[50 FR 12469, Mar. 28, 1985, as amended at 54 FR 9682, Mar. 7, 1989]*

The citation above refers to volume 50 of the Federal Register, page 12469. Most of the definitions for income taxes come from 26 U.S.C Sections 3401 and 7701, to be precise, but guess what, you won't find pointers in the CFR's or IRS publications back to these original and "foundational" definitions in the U.S. Code. The terms "employer" and "employee" have a much more restrictive meaning in 26 U.S.C. Secs. 3401 and 7701 than they do in the CFR's or the IRS publications. Some definitions, like that for "withholding agent" only appear in the 26 U.S. Code and not in the 26 CFR. We assume this is the case in order to make the CFR's more confusing for IRS personnel as a way to encourage them to misinterpret the tax code in a manner that advantages the government financially. Also, if the IRS doesn't define their terms, then the concept of "willfulness" as it relates to violating Citizen's rights by wrongfully taking more taxes than is owed becomes less threatening for IRS agents. They can just "claim ignorance" when prosecuted for malfeasance, which is something we citizens could never do as it relates to paying our taxes! This devious tactic is called "plausible deniability".

> *"…we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."*
> *[California Bankers Assn. v. Shultz, 416 U.S. 21 (1974)]*

> *"An individual cannot be prosecuted for violating the act unless he violates the implementing regulations."*
> *[United States v. Reinis, 794 F.2d. 506 (9th Cir. 1986), United States v. Murphy, 809 F.2d. 1427 (9th Cir. 1987)]*

> *"Criminal penalties…can attach* ***only*** *upon violation of regulations promulgated by the Secretary."*
> *[U.S. v. Reinis, 794 F.2d. 506]*

> *"****Individual cannot be prosecuted*** *for violating Currency Reporting Act* ***unless he violates the implementing regulations****."*
> *[31 U.S.C.A. §5311 et. seq.]*

> *CONSPIRACY: "Where* ***regulations****…did not impose duty to disclose information, failure to disclose* ***was not*** *conspiracy to defraud government."*

[18 USCA, 31 U.S.C.A. §5311]

"Because Congress has delegated to the Commissioner the power to promulgate 'all needful rules and regulations for the enforcement of (the Internal Revenue Code) 26 U.S.C. §7805(a), we must defer to his regulatory interpretations of the Code so long as they are reasonable."
[National Muffler Dealers Assn., Inc. v. United States, 440 U.S. 472, 476-477, 99 S.Ct. 1304, 1306-1307, 59 L. Ed.2d. 519.]

"Due process requires that penal statutes define criminal offense with sufficient clarity that the ordinary person can understand what conduct is prohibited."
[U.S.C.A Const. Amend 5]

Without the statute there is no authority for implementing a regulation and without the regulation, no civil or criminal penalties can be imposed. Further regulations cannot change or enlarge the operation of the statue but only clarify it.

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

Under Curley v. U.S., 791 F.Supp 52 (E.D.N.Y. 1992), at 55, we read:

*(6) "Plaintiff relies heavily on the Internal Revenue Manual ("IRM") in her argument that the assessment is procedurally valid. However, **the IRM does not have the force and effect of law**" United States v. New York Telephone Co., 644 F.2d. 953, 959 n. 10 (2nd Cir. 1981). Since the **IRM is not law**, any alleged failure to adhere to its provisions will not necessarily result in an invalid assessment. See Foxman v. Renison, 449 U.S. 993, 101 S.Ct. 530, 66 L.Ed. 2d 290 (1980). 449 U.S. 1119, 101 S.Ct 932, 66 L.Ed. 2d 848 (1981). Kopunek v. Director of Internal Revenue, 528 F.Supp. 134, 137 (1981).*

(7) However, failure to adhere to agency regulations may amount to a denial of due process if the regulations are required by the constitution or statute." Arzanipour v. Immigration and Naturalization Service, 866 F.2d. 743, 746 (5th Cir. 1989).
*[*Curley v. U.S., *791 F.Supp 52 (E.D.N.Y. 1992)]*

The type of regulation that must be violated to incur civil or criminal penalties must be either a legislative or interpretive regulation written by the Department of the Treasury. That means it must either be a Part 1 (26 CFR § 1.XXXX) or a Part 301 (26 CFR §301.XXXX) regulation. Part 601 regulations, which apply to Subtitle F of the Internal Revenue Code, ***do NOT*** qualify as legislative or interpretive regulations for law enforcement because they are procedural in nature and don't necessarily even apply to the agency (IRS in this case) they are written for in all cases!

The table below provides a list of the ONLY enforcing regulations for Title 26, mostly under Subtitle F, which is Procedures and Administration:

Table 3: Enforcement Regulations

Title 26 U.S.C.	*Description*	*Location of Enforcement Regulations*
§6020	Returns prepared for or executed by Secretary	27 CFR Parts 53, 70
§6201	Assessment authority	27 CFR Part 70
§6203	Method of assessment	27 CFR Part 70
§6212	Notice of deficiency	No Regulations
§6213	Restrictions applicable to: deficiencies, petition to Tax Court	No Regulations
§6214	Determination by Tax Court	No Regulations
§6215	Assessment of deficiency found by Tax Court	No Regulations
§6301	Collection authority	27 CFR Parts 24, 25, 53,70, 250, 270, 275
§6303	Notice and demand for tax	27 CFR Parts 53, 70
§6321	Lien for taxes	27 CFR Part 70
§6331	Levy and Distraint	27 CFR Part 70
§6332	Surrender of property subject to levy	27 CFR Part 70
§6420	Gasoline used on farms	No Regulations
§6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 CFR Parts 70, 170, 194, 296
§6651	Failure to file tax return or to pay tax	27 CFR Parts 24, 25, 70, 194
§6671	Rules for application of assessable penalties	27 CFR Part 70
§6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 CFR Part 70
§6701	Penalties for adding and abetting understatement of tax liability	27 CFR Part 70
§6861	Jeopardy assessments of income, estate, and gift taxes	No Regulations
§6902	Provisions of special application to transferees	No Regulations
§7201	Attempt to evade or defeat tax	No Regulations
§7203	Willful failure to file return, supply information, or pay tax	No Regulations
§7206	Fraud and false statements	No Regulations
§7207	Fraudulent returns, statements and other documents	27 CFR Part 70
§7210	Failure to obey summons	No Regulations
§7212	Attempts to interfere with administration of Internal Revenue Laws	27 CFR Parts 170, 270, 275, 290, 295, 296
§7342	Penalty for refusal to permit entry, or examination	27 CFR Parts 24, 25, 170, 270, 275, 290, 295, 296
§7343	Definition of term "person"	No Regulations
§7344	Extended application of penalties relating to officers of the Treasury Department	No Regulations
§7401	Authorization (judicial proceedings)	27 CFR Part 70
§7402	Jurisdiction of district courts	No Regulations
§7403	Action to enforce lien or to suspend property to payment of tax	27 CFR Part 70
§7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulations
§7601	Canvass of districts for taxable persons and objects	27 CFR Part 70
§7602	Examination of books and witnesses	27 CFR Parts 70, 170, 296
§7603	Service of summons	27 CFR Part 70
§7604	Enforcement of summons	27 CFR Part 70
§7605	Time and place of examination	27 CFR Part 70
§7608	Authority of Internal Revenue enforcement officers	27 CFR Parts 70, 170, 296

Most noteworthy of the above is that ALL of the implementing and enforcement regulations identified in Subtitle F are associated with Title 27, Alcohol, Tobacco, and Firearms, and NOT Subtitle A Income taxes! There simply are no implementing regulations under the tax imposed in I.R.C. Section 1 that authorize the use of distraint by the Internal Revenue Service. Distraint, also called enforcement, includes the use of levy, assessment, penalties, summons, or collection to enforce a tax. Why? Because there is no statute making anyone liable for the tax! Since the income tax is a

voluntary donation program for the municipal government of the District of Columbia created mainly for elected or appointed government employees, then most Americans aren't the proper subject of the tax and the IRS can't force them to participate without enforcement authority! This point is key to your success in all your dealings with the Internal Revenue Service. If there were enforcement provisions for the income tax imposed in Section 1 of the I.R.C., they would be written in the right-hand column above as "26 CFR Part 1", but you can see that they don't exist. You can check this for yourself at the following web address:

http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

The statute and the enforcement regulations must ***together*** form a pair that constitutes ***the law***. If either of the two don't exist, then the law cannot be enforced!

> *"Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself, and assign the resulting tags to their respective geographical areas. Once promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language.* **The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other.***"*
> *[U.S. v. Mersky, 361 U.S. 431 (1960)]*
>
> ---
>
> *"...the Act's civil and* ***criminal penalties attach only upon violation of the regulation promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone****...The Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so tested they are valid."*
> *[Calif. Bankers Assoc. v. Shultz, 416 U.S. 21, 44, 39 L.Ed. 2d 812, 94 S.Ct 1494]*
>
> ---
>
> *"****Failure to adhere to agency regulations*** *[by the IRS or other agency] may* ***amount to denial of due process if regulations are required by constitution or statute****..."*
> *[Curley v. United States, 791 F.Supp. 52]*
>
> ---
>
> *"Although the relevant statute authorized the Secretary to impose such a duty, his implementing regulations did not do so. Therefore we held that there was no duty to disclose..."*
> *[United States v. Murphy, 809 F.2d. 142, 1431]*

Based on the foregoing, a government official attempting an enforcement action against those domiciled in states of the Union who are protected by the Constitution has the burden of providing one of the following two forms of legal evidence or the government employee loses its authority to enforce against him and is engaging in a constitutional tort which results in a surrender of official and sovereign immunity on the part of the employee:

1. The government employee produces an implementing regulation published in the Federal Register which authorizes the enforcement action.
2. The government produces legally admissible evidence conforming with the Federal Rules of Evidence which proves that the person who is the subject of the enforcement action is a member of one of the three groups that are specifically exempted from the requirement for publication in the Federal Register, which are:
   2.1. "A military and foreign affairs function of the United States". 5 U.S.C. §553(a)(1).
   2.2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. §553(a)(2).
   2.3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". 5 U.S.C. §1505(a)(1).

Usually, the only evidence in the possession of the government which might link a person to membership in any one of the above exempted groups is

1. Information Returns such as IRS Forms W-2, W-4, 1042, 1098, and 1099

2. A tax return filled out by the subject and signed under penalty of perjury. This is legally admissible evidence that you are a "public official", because EVERYTHING that goes on an IRS Form 1040 is "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". See the following for proof:

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

3. An SS-5 form. This proves that the party is a federal benefit recipient who is an "individual" as defined in 5 U.S.C. §552a(a)(2) and "federal personnel" entitled to receive federal retirement benefits as defined in 5 U.S.C. §552a(a)(13). Both of these entitled "federal personnel" and "individuals" are government employees or agents, as exhaustively proven in the memorandum of law below:

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

If you would like a detailed study of the conclusions of this section that you can file with your pleadings in court, see the following memorandum of law on our website:

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

11 How being a federal instrumentality Effects Choice of Law in Tax Litigation[17]

Within tax litigation, there are certain rules for determining what law may be cited as evidence of violation or injury. The foundation of these rules is Federal Rule of Civil Procedure Rule 17(b), which says in pertinent part:

> *IV. PARTIES > Rule 17.*
> *Rule 17. Parties Plaintiff and Defendant; Capacity*
>
> *(b) Capacity to Sue or be Sued.*
>
> ***Capacity to sue or be sued is determined as follows:***
>
> *(1) **for an individual who is not acting in a representative capacity, by the law of the individual's domicile;***
> *(2) **for a corporation, by the law under which it was organized; and***
> *(3) for all other parties, by the law of the state where the court is located, except that:*
> *(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and*
> *(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.*

The above means literally that in any tax trial, the only type of law that can be cited is the law of the Defendant's domicile. The Defendant's domicile, in turn, is a matter of his own personal and political choice, and it is recorded on government forms, such as driver's license applications, tax forms, etc. See the following for details:

Why Domicile and Becoming a "Taxpayer" Require Your Consent http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm

We also emphasize that a person with a domicile within a state of the Union does NOT maintain a domicile within the "United States" as defined in the Internal Revenue Code, 26 U.S.C. §7701(a)(9) and (a)(10) . See:

An Investigation Into the Meaning of the Term "United States" http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm

Therefore, by implication, the I.R.C. may not be cited against a person domiciled in a state of the Union. The only exception to this requirement is the case of a person who is either a federal "employee" or a federal contractor or benefit recipient. This is alluded to in Fed.Rule.Civ.Proc. 17(b) above, when it says:

[17] Adapted from pamphlet "Reasonable Belief about Income Tax Liability", Section 3, available from: http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf

IV. PARTIES > *Rule 17.*
Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:
(1) ***for an individual who is not acting in a representative capacity, by the law of the individual's domicile;***

In the case where a person is acting in a representative capacity over a federal business entity, contract, or as an employee, the *American Jurisprudence 2d* legal encyclopedia describes what law prevails. It says of claims of the United States against private parties the following:

American Jurisprudence, 2d
United States
§ 42 Interest on claim [77 Am Jur 2d UNITED STATES]

The interest to be recovered as damages for the delayed payment of a contractual obligation to the United States is not controlled by state statute or local common law. In the absence of an applicable federal statute, the federal courts must determine according to their own criteria the appropriate measure of damages. State law may, however, be adopted as the federal law of decision in some instances.
[American Jurisprudence, 2d, United States, Section 42: Interest on Claim]

Federal employment, contract, or benefit claims may not be litigated in a state court because of the Separation of Powers Doctrine. Therefore, they must be litigated in federal court as a contract claim, and the rules of decision must be only federal law, based on the above. The laws to be applied, under Federal Rule of Civil Procedure Rule , are the laws under which the United States Government federal corporation are organized, which are the U.S. Code, instead of state law. What makes the issue justiciable is that it is a federal "benefit", employment, or contract issue arising under 5 U.S.C. §553(a)(2). Our memorandum of law below also proves that Subtitle A of the I.R.C. attaches to people in states of the Union as "private law" or "contract law" at:

Requirement for Consent, Form #05.003 http://sedm.org/Forms/FormIndex.htm

The Internal Revenue Code, Subtitle A therefore attaches to people as "private law", "contract law" and "special law". Even the U.S. Supreme Court admitted this when it said:

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

Below is the meaning of "quasi-contract" from the above quote:

*"**Quasi contact**. An obligation which law creates in absence of agreement; it is invoked by courts where there is unjust enrichment. Andrews v. O'Grady, 44 Misc.2d 28, 252 N.Y.S.2d 814, 817. Sometimes referred to as implied-in-law contracts (as a legal fiction) to distinguish them from implied-in-fact contracts (voluntary agreements inferred from the parties' conduct). Function of "quasi-contract" is to raise obligation in law where in fact the parties made no promise, and it is not based on apparent intention of the parties. Fink v. Goodson-Todman Enterprises, Limited, 9 C.A.3d 996, 88 Cal.Rptr. 679, 690. See also Contract."*
[Black's Law Dictionary, Sixth Edition, p. 1245]

The trouble is, the federal courts refuse to acknowledge the requirement to prove written or even constructive consent to the "trade or business" franchise contract, and by ignoring the requirement for written, explicit consent, they have in effect made participation in this "scheme" to defraud the people involuntary and enforced. The result is racketeering and extortion, in violation of 18 U.S.C. §1951. We can easily see how being party to this contract makes us into "domiciliaries" and "residents" of the federal zone by examining the older implementing regulations for Section 7701 of the Internal Revenue Code below. Note that a party becomes a "resident" by virtue of whether they are engaged in a "trade or business", which means federal contracts and employment. In effect, consenting to the federal employment contract by engaging in a "trade or business" contractually shifts one's effective domicile to the federal zone. Here is the regulation which proves this, which by the way was conveniently REMOVED from the code right after we published this finding in order to hide the true nature of the income tax from the average American:

> *26 CFR §301.7701-5 Domestic, foreign, resident, and nonresident persons.*
>
> *A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States.* ***A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation****. A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership.* ***Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.***
> *[26 CFR §301.7701-5, Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]*

To give you one simple example of how Subtitle A of the I.R.C. attaches to people in states of the Union as a federal employment contract issue, consider the W-4. The regulations describing the W-4 identify it as a "voluntary withholding agreement". Here is the regulation:

> *Title 26*
> *CHAPTER I, SUBCHAPTER C, PART 31, Subpart E*
> *Sec. 31.3402(p)-1 Voluntary withholding agreements.*
>
> *(a) In general.*
>
> *An employee and his employer may enter into an* ***agreement*** *under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970.* ***An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.*** *The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. (b) Form and duration of agreement. (1)(i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.*

Black's law Dictionary defines an "agreement" essentially as a contract. When you fill out and submit a Form W-4, you are signing a contract or agreement to procure "social insurance" from the national (not "federal") government. That contract:

1. Makes you into a "Trustee" over federal property. See:
   Resignation of Compelled Social Security Trustee, Form #06.002
   http://sedm.org/Forms/FormIndex.htm
2. Makes you into a federal "employee", or at least an agent or fiduciary for a federal trust which is wholly owned by the mother corporation, the "United States", as defined in 28 U.S.C. §3002(15)(A).
3. Makes you into an "officer of a corporation", who is liable under 26 U.S.C. §6671(b) for all I.R.C. penalties and liable for all criminal provisions of the I.R.C. under 26 U.S.C. §7343.
4. Shifts your legal domicile to the federal zone, because that is the domicile of the trust that you now represent.
5. Makes the Social Security Number into a "Taxpayer Identification Number" and a license number for the Trustee, which is now you. See:

Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013
http://sedm.org/Forms/FormIndex.htm

6. Makes your earnings into federal revenues and you into a "transferee" and "fiduciary" over federal payments. See 26 U.S.C. §§6901 and 6903.
7. Makes you into a federal subcontractor or "Kelley girl".
8. Makes the 1040 form into a profit and loss statement for a federal business trust.
9. Makes you into a withholding agent who is liable under 26 U.S.C. §1461 to "return" federal payments to your new employer, the federal government.

You can read why all the above is true in the following sources, should you wish to further investigate:

1. *Great IRS Hoax*, Form #11.302, Sections 5.6.11 and 5.6.16: http://sedm.org/Forms/FormIndex.htm
2. *Resignation of Compelled Social Security Trustee*, Form #06.002: http://sedm.org/Forms/FormIndex.htm

Based on the above analysis, we will now list what law is admissible as evidence (not "presumed" evidence, but REAL evidence) of liability in a federal trial relating to tax issues. This list was adapted from the beginning of Chapter 5 of the *Tax Fraud Prevention Manual*, Form #06.008:

1. Federal courts are administrative courts which have jurisdiction only over the following:
   1.1. Plenary/General jurisdiction over federal territory: Implemented primarily through "public law" and applies generally to all persons and things. This is a requirement of "equal protection" found in 42 U.S.C. §1981. Operates upon:
      1.1.1. The District of Columbia under Article 1, Section 8, Clause 17 of the U.S. Constitution.
      1.1.2. Federal territories and possessions under Article 4, Section 3, Clause 3 of the U.S. Constitution.
      1.1.3. Special maritime jurisdiction (admiralty) in territorial waters under the exclusive jurisdiction of the general/federal government.
      1.1.4. Federal areas within states of the Union ceded to the federal government. Federal judicial districts consist entirely of the federal territory within the exterior boundaries of the district, and do not encompass land not ceded to the federal government as required by 40 U.S.C. §255 and its successors, 40 U.S.C. §3111 and 3112. See section 7.4 of the *Tax Fraud Prevention Manual*, Form #06.008 et seq for further details.
   1.2. Subject matter jurisdiction:
      1.2.1. "Public laws" which operate throughout the states of the Union upon the following subjects:
         1.2.1.1. Postal fraud. See Article 1, Section 8, Clause 7 of the U.S. Constitution..
         1.2.1.2. Counterfeiting under Article 1, Section 8, Clause 6 of the U.S. Constitution.
         1.2.1.3. Treason under Article 4, Section 2, Clause 3 of the U.S. Constitution.
         1.2.1.4. Interstate commercial crimes under Article 1, Section 8, Clause 3 of the U.S. Constitution.
      1.2.2. "Private law" or "special law" pursuant to Article 4, Section 3, Clause 2 of the U.S. Constitution. Applies only to persons and things who individually consent through private agreement or contract. Note that this jurisdiction also includes contracts with states of the Union and private individuals in those states. Includes, but is not limited exclusively to the following:
         1.2.2.1. Federal employees, as described in Title 5 of the U.S. Code.
         1.2.2.2. Federal contracts and "public offices".
         1.2.2.3. Federal chattel property.
         1.2.2.4. Subtitle A of the Internal Revenue Code.
         1.2.2.5. Social Security, found in 42 U.S.C. Chapter 7.
2. Internal Revenue Manual, Section 4.10.7.2.9.8 says that the IRS cannot cite rulings below the Supreme Court to apply to more than the specific person who litigated:

> *Internal Revenue Manual*
> *4.10.7.2.9.8 (05-14-1999)*
> *Importance of Court Decisions*
>
> *1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*

> *2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.*
>
> *3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.*

This provision simply means that the IRS may not cite any court case below the Supreme Court against anyone other than the party who litigated it.

3. There is no federal common law within states of the Union, according to the Supreme Court in *Erie Railroad v. Tompkins*, 304 U.S. 64 (1938). By "federal common law", we mean federal judicial precedent that governs legal disputes over matters under exclusive state control, jurisdiction, and sovereignty. This would include all subject matters not delegated to the federal government by the federal Constitution. The reason why there can be no federal common law within states of the Union is that the federal courts cannot interfere with the sovereignty of the state courts and governments within their exclusive spheres. See *Alden v. Maine*, 527 U.S. 706 (1999) for a thorough explanation of this concept of sovereign immunity within judicial tribunals that is the foundation of separation of powers between the state and federal governments. Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens domiciled in states of the union who do not declare themselves to be "U.S. citizens" under 8 U.S.C. §1401 and who would litigate under diversity of citizenship, as described in 28 U.S.C. §1332.

> *"There is no Federal Common Law, and Congress has no power to declare substantive rules of Common Law applicable in a state. Whether they be local or general in their nature, be they commercial law or a part of the Law of Torts"*
> *[Erie Railroad v. Tompkins, 304 U.S. 64 (1938)]*

> ***"Common law**. As distinguished from statutory law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this sense, particularly the ancient unwritten law of England. In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The "common law" is all the statutory and case law background of England and the American colonies before the American revolution. People v. Rehman, 253 C.A.2d 119, 61 Cal.Rptr. 65, 85. It consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. Bishop v. U.S., D.C.Tex., 334 F.Supp. 415, 418.*
>
> *"Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State."*
>
> *"In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs.*
>
> *"For federal common law, see that title.*
>
> *"As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and sometimes also to "equitable" or to "criminal."*
> *[Black's Law Dictionary, Sixth Edition, p. 276]*

4. The Rules of Decision Act, 28 U.S.C. §1652, requires that the laws of the states of the Union are the only rules of decision in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and MAY NOT cite federal case law.
5. The Federal Rule of Civil Procedure 17(b) say that the capacity to sue or be sued is determined by the law of the individual's domicile. This means that if a person is domiciled in a state and not within an enclave, then state law are the rules of decision rather than federal law. Since state income tax liability in nearly every state is dependent on a federal liability first, this makes an income tax liability impossible for those domiciled outside the federal zone.
6. Any government representative, and especially who is from the Dept. of Justice or the IRS, who cites a case below the Supreme Court in the case of a person who is a "national" but not a "citizen" under federal law as described in this

book, is abusing case law for political purposes, usually with willful intent to deceive the hearer. Such devious tactics can only be described as abuse of case law for political, rather than lawful, purposes. Federal courts, incidentally, are NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of case law, but judges who are fond of increasing their retirement benefits often will acquiesce if you don't call them on it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under 28 U.S.C. §144 and 28 U.S.C. §455.

The book *Conflicts in a Nutshell* confirms some of the above conclusions by saying the following:

> *"After some 96 years of this, the Supreme Court acknowledged the unfair choice of forum this gave the plaintiff in a case governed by decisional rather than statutory law merely because the plaintiff and defendant happened to come from different states. Reconstruing the Rules of Decision Act, the Supreme Court in Erie overruled Swift and held that state law governs in the common law as well as in the statutory situation. Subsequent cases clarified that this means forum law; the law of the state in which the federal court is sitting.*
>
> *"The result is that the federal court in a diversity case sits in effect as just another state court, seeking out forum state law for all substantive issues. The Rules of Decision Act does not apply to procedural matters, however; for matters of procedure a federal court, sitting in a diversity or any other kind of case, applies its own rules. This has been so since 1938, when , coincidentally (Erie was also decided in 1938), the Federal Rules of Civil Procedure arrived on the scene."*
> *[Conflicts in a Nutshell, David D. Seigel, West Publishing, 1994; ISBN 0-314-02952-4, p. 317]*

See section 6.1.4 of the *Tax Fraud Prevention Manual*, Form #06.008 for further details on how the DOJ, IRS, and the Federal Judiciary abuse case law for political rather than legitimate or Constitutional legal purposes in order to encourage and foster false "presumption". Consequently, as you read the cites provided in this chapter, all of which derive from federal courts, you must take them with a grain of salt and a healthy bit of discretion.

We will now summarize the conclusions of this section with a table so that they are perfectly clear:

Table 4: Choice of law in tax litigation

#	Description	Choice of law	
		Persons domiciled in states of the Union with no federal contracts, benefits, agency, or employment	***Federal employees, contractors, benefit recipients, and agents***
1	**Subject matter constituting authority federal jurisdiction**	None	Federal employment, contracts, agency
2	**Authorities on source of jurisdiction**	FRCP Rule 17(b) Rules of Decision Act, 28 U.S.C. §1652 *Erie Railroad v. Tompkins*, 304 U.S. 64 (1938)	FRCP Rule 17(b) 5 U.S.C. §552(a)(1) 5 U.S.C. §553(a)(2) 26 CFR §601.702(a)(1) 31 CFR §1.3(a)(4) 44 U.S.C. §1505(a).
3	**Only authorized place to litigate**	State court (See Alden v. Maine, 527 U.S. 706 (1999))	Federal court (See Alden v. Maine, 527 U.S. 706 (1999))
4	**Law to be applied**	State revenue codes (Internal Revenue Code is *excluded*) State judicial precedents (stare decisis) ONLY	Internal Revenue Code Federal District and Circuit Court precedents (stare decisis) ONLY
5	**"Presumption" in court**	Prohibited by U.S. Constitution because violates "due process" of law	Not prohibited, because Bill of Rights (first ten Amendments to the United States Constitution) do not apply in the "federal zone"
6	**Taxable activity**	None	"trade or business" as defined in 26 U.S.C. §7701(a)(26). See: http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm
7	**Earnings are**	Devoted to a private use	Devoted to a "public use" to procure "privileges" such as tax deductions under 26 U.S.C. §162, Earned income credits under 26 U.S.C. §32, and reduced liability, graduated rate under 26 U.S.C. §1.
8	**Legal domicile of Defendant**	State of the Union	Federal zone (see 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d))
9	**Agency (role) of Defendant**	Natural person (self) (See *Hale v. Henkel*, 201 U.S. 43 (1906))	1 "Transferee" under 26 U.S.C. §6901 2 "Fiduciary" under 26 U.S.C. §6903 3 Federal "employee" under 26 CFR §31.3401(c)-1 4 "Officer of a corporation" under 26 U.S.C. §6671(b) and 26 U.S.C. §7343 5 "Public office". See Osborn v. Bank of U.S., 22 U.S. 738 (1824) for definition meaning of "public office"
10	**Contract which created federal agency/employment**	None	Social Security form SS-5 IRS Form W-4 IRS Form 1040
11	**What you have to do to terminate federal agency/employment**	Nothing	Send in "Resignation of Compelled Social Security Trustee" document at: http://sedm.org/Forms/FormIndex.htm
12	**Admissible evidence in a tax trial**	State law Statutes at Large after 1939. See 53	Whatever the judge wants. There can be no violation of due process for people

		Stat. 1, Section 4. Rulings of the Supreme Court and not lower courts. See IRM 4.10.7.2.8	who are not protected by the Constitution.
13	**Enforcement of federal law requires ALL of the following**	Positive law (see 1 U.S.C. §204 legislative notes for list of titles that are positive law). See: http://sedm.org/Forms/MemLaw/PositiveLaw.pdf Implementing regulations published in the Federal Register	Proof of consent/contract Statutes only. Implementing regulations published in the Federal Register are NOT required under 44 U.S.C. §1505(a)(1) and 5 U.S.C. §553(a)(2).

The party on the left in the above table, who is the person with no contracts, employment, or agency, is the person you want to be in order to be free and sovereign. The U.S. Supreme Court has said of such a person:

> *"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. **He owes nothing to the public [including so-called "taxes" under Subtitle A of the I.R.C.] so long as he does not trespass upon their rights.**"*
> *[Hale v. Henkel, 201 U.S. 43, 74 (1906)]*

On the other hand, the party on the right, the federal employee or contractor, has essentially no Constitutional rights. This was explained by the U.S. Supreme Court as follows:

> *"The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973)."*
> *[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

12 Where's the federal contract you signed, Mr. "Taxpayer"?

Now that we know that Subtitle A of the I.R.C. is "private law", a franchise, and an excise tax that applies to those who voluntarily consent under franchise contract codified in I.R.C. Subtitle A to become federal instrumentalities, employees, and officials, we also know that the federal government needs some evidence of your "federal contractor" status in order to treat you as a federal instrumentality, a "public officer", or a benefit recipient. What form does that employment contract take and at what point did you sign it and make yourself into a federal instrumentality? We'll answer that question in this section.

There are five main methods by which private Americans with no connection to the federal government become agents, "employees", or contractors of the federal government. These are

1. SSA Form SS-5: This is the form used to sign up for Social Security and obtain a Social Security Number. This form creates a Social Security Trust and makes you into a Trustee and agent for the trust. The trust is an "employee" of the

federal government and therefore you as its agent are also an "employee". See the following document for exhaustive evidence proving the legal existence of the trust and which describes how to resign from the trust as "Trustee":
http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf

2. IRS Form W-4: This for identifies the submitter in the upper left corner as an "employee". Only federal "employees" can sign or submit this form. Those who sign do so under penalty of perjury. The perjury statement makes the form into court admissible evidence that you are a federal "employee". The proper withholding form for most Americans born within and living within states of the Union is the IRS Form W-8BEN, as described in the article below:

   About IRS Form W-8BEN, Form #04.202
   http://sedm.org/Forms/FormIndex.htm

3. IRS Form 1040: This form is actually a profit and loss statement for the Social Security Business trust. The real "taxpayer" is the trust, not that natural person who is acting as its "Trustee" using his license called the "Social Security Number". All deductions or reductions in liability taken on this statement amount to "employment compensation" for an "employee" of the business trust. These reductions in liability come from:
   3.1. IRC Section 1, which applies a graduated, reduced rate of tax to the proceeds, whereas 26 U.S.C. §871 applies a flat 30%, which is usually higher than the rate most people pay.
   3.2. IRC Section 32, which is earned income credit for the poor.
   3.3. IRC Section 162, which allows "deductions" to the tax liability such as mortgage interest, state income taxes, etc.

   Those who do not wish to act as Social Security Trustees cannot file the 1040 form. If they file anything, they instead must file the IRS Form 1040NR. For details on how to file this form, see the free link below::
   http://famguardian.org/TaxFreedom/Instructions/4.12RequestRefunds.htm

4. Use of an SSN on any government or financial institution form. Use of the number on any government application, and especially one for any kind of benefit or service, constitutes prima facie evidence that you consent to be treated as a Trustee for the Social Security Trust and a "taxpayer". You can't use the number and there are legitimate ways to not use it in nearly every case, if you investigate this matter further. For further information, see:
   4.1. *Why You are Not Eligible for Social Security*, Form #06.001: Shows you how to get a driver's license without an SSN. See:
   http://sedm.org/Forms/FormIndex.htm
   4.2. *About SSNs/TINs on Tax Correspondence*, Form #05.012: Explains why you can't use SSN's on government forms and how to avoid using them. See:
   http://sedm.org/Forms/FormIndex.htm
   4.3. *About IRS Form W-8BEN*, Form #04.202. Explains how to stop withholding and open financial accounts without using a social security number. See:
   http://sedm.org/Forms/FormIndex.htm

5. Information Returns such as the W-2, 1042, 1098, 1099 or Treasury Form 8300 (CTR):
   5.1. W-2's can only be filed on those who have a W-4 in place. If you never filed a W-4, then you can't earn any "wages" or "compensation" and therefore there is nothing to report. See:

   Federal Tax Withholding, Form #04.102
   http://sedm.org/Forms/FormIndex.htm

   The following regulation also shows why those who are not connected to a "public office" (federal employment"), cannot earn any reportable "wages" on a W-2:

> *Title 26: Internal Revenue*
> *PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE*
> *Subpart E—Collection of Income Tax at Source*
>
> *§ 31.3401(a)(11)-1 Remuneration other than in cash for service not in the course of employer's trade or business.*
>
> ***(a) Remuneration paid in any medium other than cash for services not in the course of the employer's trade or business is excepted from wages and hence is not subject to withholding.*** *Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, or other goods or commodities, for services not in the course of the employer's trade or business does not constitute wages. Remuneration paid in any medium other than cash for other types of services does not come within this exception from wages. For provisions relating to cash remuneration for service not in the course of employer's trade or business, see §31.3401(a)(4)–1.*

   5.2. 1099's can only be filled out for those engaged in a "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office" in the U.S. government. Those not employed or contracting

with the federal government as such officers can earn not income "effectively connected with a trade or business". Therefore, they are "nontaxpayers". See section 10 of the following memorandum:

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

The following quote from the back of the IRS Form 1099-MISC reveals why it is only for use in federal "employment", which is called a "trade or business":

> *IRS Form 1099-MISC Instructions, 2005, p. 1*
>
> *"**Trade or business reporting only**. Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Nonprofit organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section 521. Payments by federal, state, or local government agencies are also reportable."*

5.3. Treasury Form 8300, also called a Currency Transaction Report, may only be filed against those connected with "trade or business". The form is completed, usually wrongfully, by banks and financial institutions when amounts of $10,000 or more in cash are paid to any person.

> *31 CFR §103.30(d)(2) General*
>
> *(2) **Receipt of currency not in the course of the recipient's** **trade or business**.*
>
> ***The receipt of currency in excess of $10,000 by a person other than in the course of the person's** **trade or business** **is not reportable under 31 U.S.C. 5331**.*

Those who never submit any of the above forms or have them submitted against them involuntarily should never have given the IRS a reason to institute collections against them. Those who have the forms submitted involuntarily must promptly correct the erroneous reports of "gross income" in order to prevent unlawful collection actions directed against them as "public officers" and federal "employees". The articles below describe how to correct such erroneous reports that wrongfully implicate federal "employment" on your part:

1. *The "Trade or Business" Scam*, Form #05.001:
   http://sedm.org/Forms/FormIndex.htm
2. *Correcting Erroneous IRS Form W-2's*, Form #04.006:
   http://sedm.org/Forms/FormIndex.htm
3. *Correcting Erroneous IRS Form 1042's*, Form #04.003:
   http://sedm.org/Forms/FormIndex.htm
4. *Correcting Erroneous IRS Form 1098's*, Form #04.004:
   http://sedm.org/Forms/FormIndex.htm
5. *Correcting Erroneous IRS Form 1099's*, Form #04.005:
   http://sedm.org/Forms/FormIndex.htm
6. *Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report*, Form #04.008
   http://sedm.org/Forms/FormIndex.htm

13 Rebutted Objections to the Content of this Document

13.1 "includes" argument

The most frequent objection to the content of this document relates to the employment of the word "includes" within the Internal Revenue Code. Proponents of this objection often state arguments like the following:

> *"Your interpretation of the term 'United States' as defined in 26 U.S.C. §7701(a)(9) is incorrect. The definition uses the word 'includes'. 26 U.S.C. §7701(c) identifies the word 'includes' as a term of enlargement and not limitation. This means that it is being used as the equivalent of 'in addition to'. The thing that it is adding to is the commonly understood meaning of the term, which interprets its meaning as including the 50 states of the Union."*

The definition of "includes" they are referring to in the above is the following:

> *26 U.S.C. Sec. 7701(c) Includes and Including*
>
> *The terms 'include' and 'including' when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined."*

What the above devious approach is trying to do is to abuse the rules of statutory construction in order to encourage or promote false presumption about the jurisdiction of the Internal Revenue Code. They are trying to hoodwink you into believing that the IRS has more jurisdiction than they actually have. The rules of statutory construction state that the purpose for defining a term in a law is to ***supersede***, not ***enlarge***, the common definition of the term. The purpose of law is to ***eliminate***, not introduce, uncertainty, confusion, or presumption about what is required. If it adds to confusion or presumption, the due process is violated. Such a malicious approach is also the equivalent of "false commercial speech" which can and should be subject to injunction by the federal courts, but seldom is. In effect, whoever makes this false claim is trying to imply that I.R.C. 7701(c) gives them carte blanche authority to include whatever they subjectively want to add into the definition of the term being controverted. This approach obviously:

1. Violates the whole purpose behind why law exists to begin with, explained earlier , which is to define and limit government power so as to protect the citizen from abuse by his government.
2. Gives arbitrary authority to a single individual to determine what the law "includes" and what it does not.

> *"**When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power**. It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' **For the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself**."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

3. Creates a society of men and not law, in violation of *Marbury v. Madison* cited earlier.
4. Is a recipe for tyranny and oppression.
5. Creates slavery and involuntary servitude of citizens toward their government, in violation of the Thirteenth Amendment.
6. Creates a "dulocracy", where our public servants unjustly domineer over their sovereign citizen masters:

> *"**Dulocracy**. A government where servants and slaves have so much license and privilege that they domineer."*
> *[Black's Law Dictionary, Sixth Edition, p. 501]*

7. Compels "presumption" and therefore violates due process of law. See:
   Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
   http://sedm.org/Forms/FormIndex.htm
8. Violates due process of law and thereby injures the Constitutional rights of the interested party.

Black's Law Dictionary provides *two* possible definitions for the word "includes". It can be used as a term of limitation or enlargement:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already*

> *included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d. 227, 228."*
> *[Black's Law Dictionary, Sixth Edition, p. 1185 (1990)]*

Based on the above, the only reasonable interpretation of any statute or code is to include only that which is explicitly spelled out. There are only three ways to define a term in a law:

1. To define ***every*** use and application of a term within a ***single*** section of a code or statute. Such a definition could be relied upon as a universal rule for interpreting the word defined, to the exclusion, even, of the common definition of the word. Remember that according to the Rules of Statutory Construction, the purpose for defining a word in a statute is to exclude all other uses, and even the common use, from being used by the reader. This is the case with the word "includes" within the Internal Revenue Code, which is only defined in one place in the entire Title 26, which is found in 26 U.S.C. §7701(c). For this type of definition, the word "includes" would be used ONLY as a term of "limitation".
2. To break the definition across multiple sections of code, where each **additional** section is a regional definition that is limited to a specific range of sections within the code. For this context, the term "includes" is used mainly as a word of "limitation" and it means "is limited to". For instance, the term "United States" is defined in three places within the Internal Revenue Code, and each definition is different:
   2.1. 26 U.S.C. §3121
   2.2. 26 U.S.C. §4612
   2.3. 26 U.S.C. §7701(a)(9) and (a)(10).
3. To break the definition across multiple sections of code, where each additional section ADDS to the definition. For this context, the term "includes" is used mainly as a word of "enlargement", and functions essentially as meaning "in addition to". For instance:
   3.1. Code section 1 provides the following definition:

> *Chapter 1 Definitions*
> *Section 1: Definition of "fruit"*
>
> *For the purposes of this chapter, the term "fruit" **shall include** apples, oranges and bananas.*

   3.2. Code section 10 expands the definition of "fruit" as follows. Watch how the "includes" word adds and expands the original definition, and therefore is used as a term of "enlargement" and "extension":

> *Chapter 2 Definitions*
> *Section 10 Definition of "fruit"*
>
> *For the purposes of this Chapter, the term "fruit" **shall include**, in addition to those items identified in section 1, the following: Tangerines and watermelons.*

The U.S. Supreme Court elucidated the application of the last rule above in the case of *American Surety Co. of New York v. Marotta*, 287 U.S. 513 (1933):

> ***"In definitive provisions of statutes and other writings, 'include' is frequently, if not generally, used as a word of extension or enlargement [meaning "in addition to"] rather than as one of limitation or enumeration.** Fraser v. Bentel, 161 Cal. 390, 394, 119 P. 509, Ann. Cas. 1913B, 1062; People ex rel. Estate of Woolworth v. S.T. Comm., 200 App.Div. 287, 289, 192 N.Y.S. 772; Matter of Goetz, 71 App.Div. 272, 275, 75 N.Y.S. 750; Calhoun v. Memphis & P.R. Co., Fed. Cas. No. 2,309; Cooper v. Stinson, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, Section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with 'shall include,' others with 'shall mean.' The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, 'shall include' is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of 'shall mean' to enumerate and restrict and of 'shall include' to enlarge and extend. Subsection (17) declares 'oath' shall include affirmation, Subsection (19) declares 'persons' shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that 'shall include,' as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of 'shall mean' or 'shall include only.' [287 U.S. 513, 518]*
> *There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) 'creditors' should be given the meaning usually attributed to it when used in the common-law definition of*

fraudulent conveyances. See Coder v. Arts, 213 U.S. 223, 242 , 29 S.Ct. 436, 16 Ann.Cas. 1008; Lansing Boiler & Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; Githens v. Shiffler (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. Yeend v. Weeks, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Mowry v. Reed, 187 Mass. 174, 177, 72 N.E. 936; Stone v. Myers, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; Cook v. Johnson, 12 N.J.Eq. 51, 72 Am.Dec. 381; American Surety Co. v. Hattrem, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; U.S. Fidelity & Guaranty Co. v. Centropolis Bank (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; Thomson v. Crane (C.C.) 73 F. 327, 331."
[American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]

The only way to eliminate the above types of abuses in the interpretation of law and to oppose such an abuse of authority by a public servant is to demand that the misbehaving "servant" produce a definition of the word somewhere within the code that clearly establishes the thing which he is attempting to "include". If what is included isn't explicitly and unambiguously described in its entirety in an enacted positive law, then it violates the exclusio rule and due process: To wit:

*"**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]

For those of you interested in further exhaustive analysis of why the word "includes" is used as a term of *limitation* rather than enlargement within the Internal Revenue Code, please consult the free pamphlet entitled "Meaning of the Words 'includes' and 'including'" available on the internet at:

Meaning of the Words "includes" and "including", Form #05.014
http://sedm.org/Forms/FormIndex.htm

13.2 Court objections

The following subsections document specific court rulings which on first appearance would seem to rebut the content of this pamphlet but in fact do not. The reasons they do not are documented in each section.

13.2.1 U.S. v. Latham, 754 F.2d. 747, 750 (7th Cir. 1985)

Contention:

"Similarly, Latham's instruction which indicated that under 26 U.S.C. §3401(c) the category of 'employee' does not include privately employed wage earners is a preposterous reading of the statute. It is obvious that within the context of both statutes the word 'includes' is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others."
[United States v. Latham, 754 F.2d. 747, 750 (7th Cir. 1985)]

Rebuttal:

The court used the word "includes" argument as described in section 13.1 earlier. Refer to that section and SEDM Form #05.014 at the end of that section for a detailed rebuttal of that argument.

The definition of "employee" found in 26 U.S.C. §3401(c) is all inclusive, unless the government finds another statute that adds to it. Since it didn't find any place in the I.R.C. that expressly added what they wanted to add, such as private employees, the rules of statutory construction forbid adding anything to the definition beyond that shown:

*"**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]*

> *"**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)]*

In addition, the court is using verbicide to confuse by combining the word "wages" with the word "private". Anyone who earns "wages" as legally defined in 26 U.S.C. §3401(a) can only be a public officer in the U.S. government whose earnings are connected to a public office when reported on IRS Form W-2 pursuant to 26 U.S.C. §6041. As such, the court is unlawfully presuming that when one voluntarily signs a W-4, then they elect to become a "public officer" in the government and at that point, no longer can be described as "privately employed". Those who sign Form W-4 are publicly employed "Kelly Girls" working under contract, and the contract is the W-4, as confirmed by 26 CFR §31.3401(a)-3(a) and 26 CFR §31.3402(p)-1.

The court is mistaken, however, in the presumption that any IRS form or provision within the I.R.C., including a Form W-4, can or does allow formerly private person to "elect" themselves into such a public office in the government. The only way the court could be correct in their holding above is to make this false and prejudicial presumption.

By engaging in such self-serving and prejudicial presumptions, the judge is:

1. Committing the crime of causing the litigant to impersonate a public officer in the government in violation of 18 U.S.C. §912.
2. Violating due process. Any presumption that prejudices constitutional rights is a violation of due process:

> *(1) [8:4993]* ***Conclusive presumptions affecting protected interests:***
>
> *A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bed. of Ed. v. LaFleur *(1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]*

3. Violating the separation of powers by legislating things into the definition that are not there.
4. Exercising eminent domain over the private labor of a human being in violation of the Fifth Amendment takings clause because not accompanied by just compensation. In short, he is using presumptions to steal from people he is supposed to be protecting.
5. Engaging in involuntary servitude to the consequences of his presumptions in violation of the Thirteenth Amendment.

If you want to prevent the above abuses of verbicide to enslave and oppress people, we recommend attaching the following tools to your pleadings in all tax litigation before a federal court:

1. *Federal Pleading/Motion/Petition Attachment*, Litigation Tool #01.002
   http://sedm.org/Litigation/LitIndex.htm
2. *Rules of Presumption and Statutory Interpretation*, Litigation Tool #10.003
   http://sedm.org/Litigation/LitIndex.htm

13.2.2 Sullivan v. United States, 788 F.2d. 813, 815 (1st Cir. 1986)

Contention:

"To the extent Sullivan argues that he received no 'wages' in 1983 because he was not an 'employee' within the meaning of 26 U.S.C. §3401(c), that contention is meritless. Section 3401(c), which relates to income tax withholding, indicates that the definition of 'employee' includes government officers and employees, elected officials, and corporate officers. The statute does not purport to limit withholding to the persons listed therein." [Sullivan v. United States, 788 F.2d. 813, 815 (1st Cir. 1986)]

Rebuttal:

In the above case, Grant Sullivan filed a written request for refund and submitted with the request IRS Form W-2's that were filed against him which he never conclusively rebutted. Consequently, he earned "wages" as legally defined in 26 U.S.C. §3401(a), 26 CFR §31.3401(a)-3(a). In his request for refund, Sullivan wrote the word "INCORRECT" across the W-2's submitted against him and which he included with his request for refund, and explained that he is an "unenfranchised free man". What he should have done was:

1. Explain that the only way that W-2 forms can lawfully be filed against him if he is engaged in a "trade or business" and a "public office" pursuant to 26 U.S.C. §6041.
2. Explain that he is never submitted an IRS Form W-4 and therefore could earn no income reportable on an information return such as an IRS Form W-2 pursuant to 26 CFR §31.3402(p)-1.
3. Not include the original W-2's, but rather a "Substitute Form 4852" correcting the falsely reported amounts. See:

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

Sullivan was close in his argument, but he couldn't identify the franchise, which is a "trade or business" and a "public office", that is the subject of the excise tax described in I.R.C. Subtitle A. Instead, he simply indicated that he was an "unenfranchised free man".

Since Sullivan never properly rebutted the information return that connected him to the "trade or business" franchise, then this argument was meritless as the court correctly pointed out. He was a "franchised" person but he didn't know why and he didn't know how to disassociate with or disconnect with the franchise with appropriate arguments. Consequently, Sullivan:

1. Was unwittingly engaged in a "public office" in the U.S. government pursuant to 26 U.S.C. §6041(a) and 26 U.S.C. §7701(a)(26), whether he knew it or not.
2. Was functioning essentially as a "Kelly Girl" for the U.S. government temporarily on loan to his private employer, all of which constituted revenue to the United States government and not him personally.
3. Had voluntarily submitted an IRS Form W-4 and thereby became an "employee" within the meaning of the I.R.C. who earned "wages" as legally defined in 26 U.S.C. §3401(a). The only thing that is includible in "wages" is earnings connected to the "trade or business" franchise.:

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

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

4. Had to include ALL of his compensation as "gross income" pursuant to 26 CFR §31.3401(p)-1(b) and could deduct none of it at its cost if he signed an IRS Form W-4 voluntarily. Sullivan tried to deduct the cost of producing his labor from the amount on the W-2, resulting in no reportable "taxable income", but he couldn't do this if he submitted a W-4 to his private employer.

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

(a) In general.

An employee and his employer may enter into an agreement under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of §31.3401(a)–3, made after December 31, 1970. ***An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all***

> ***such amounts paid by the employer to the employee.*** *The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. See §31.3405(c)–1, Q&A–3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.*

The above quote is a violation of due process of law by the court because:

1. It does not specify *where* in the statutes that persons other than "government officers and employees, elected officials, and corporate officers" are included and therefore fails to give "reasonable notice" or a definition of exactly who is "included". Consequently, the statute is "void for vagueness". See:
   Requirement for Reasonable Notice, Form #05.022
   http://sedm.org/Forms/FormIndex.htm
2. The ruling constitutes a "presumption" about the meaning of a word that is not based on any presented evidence. A "presumption" is not evidence. All presumptions which prejudice constitutionally guaranteed rights are unconstitutional. See:
   Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
   http://sedm.org/Forms/FormIndex.htm
3. It leaves the determination of the meaning of words entirely up to the arbitrary whim of a man (a judge) instead of the law, which means it creates a "society of men". This is in violation of the Constitution, which the U.S. Supreme Court said creates a "society of law and not men".

> *"**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; 1 Cranch 137, 2 L.Ed. 60 (1803)]*

On the above subject, the U.S. Supreme Court has said:

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

13.2.3 Bernier v. IRS, KTC 1999-540, No. CV 98-0331-N-EJL (U.S.D.C. Idaho 1999)

Contention:

> *"**Plaintiff Paul Bernier alleges that in his occupation as a truck driver he is not employed by the federal government and is therefore not an employee as defined in 26 CFR §31.3401(c) (see Motion to Dismiss/Summary Judgment, Docket No. 5). Plaintiff claims that since he is not an "employee," he is exempt from income taxes because he does not earn "wages." The regulation provides:***
>
> > ***The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of more of the foregoing.***
>
> *26 CFR § 31.3401(c)-1(a).*
>
> *Plaintiff's allegation is without legal merit as he attempts to limit "employees" to employees of the federal government. However, the term employee refers to every individual who performs services at the direction or control of another. See 26 CFR § 31.3306(I)-1(b). Thus, even individuals that are not employees of the federal government are still construed as employees within the regulation if they fit within the definition pursuant to 26 CFR § 31.3401(c).*
>
> *At the hearing on June 15, 1999, Plaintiff Paul Bernier stated that he worked for C.R. England and Sons during the years of 1995 and 1996 and that he received compensation for work done at the direction of his employer.*

Based on the record before the Court, and Plaintiff's admission at the hearing, it is clear that Plaintiff fits within the definition of "employee" and is therefore subject to taxation.
[Bernier v. IRS, KTC 1999-540, No. CV 98-0331-N-EJL (U.S.D.C. Idaho 1999)]

Rebuttal:

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

First of all, the above ruling was by a magistrate judge, not an Article III judge. Therefore, it does not constitute an authoritative precedent.

The court is engaging in what we call "judicial verbicide" in the above ruling.

1. The court unlawfully "legislated from the bench" by imputing a meaning to a word that is nowhere found in the statutes or regulations themselves. In that sense, they have violated the separation of powers doctrine, which reserves the power to write law exclusively to the Legislative Branch. Consequently, the statute being enforced, being 26 U.S.C. §3401(c), is void for vagueness because it fails to give "reasonable notice" of the conduct that is expected and unlawfully compels "presumption" and a state sponsored religion surrounding what it expects.
2. The court unlawfully violated due process of law by not identifying where in the statutes or regulations the thing or class of things they were identified were specifically "included".
3. The court unlawfully engaged in prejudicial presumption unsupported by any evidence and thereby injured the rights of the litigant. Presumptions which injure constitutional rights are impermissible.

(1) [8:4993] ***Conclusive presumptions affecting protected interests:***

*A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bed. of Ed. v. LaFleur *(1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]

3.1. They presumed a meaning of a word that is not in the statute.
3.2. The admitted into evidence and mentioned in a ruling a statute that is simply a presumption. 1 U.S.C. §204 says that everything in Title 26 is "prima facie evidence" which means a "presumption".

*"**Prima facie evidence**. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence. State v. Haremza, 213 Kan. 201, 515 P.2d. 1217, 1222.*

That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all the other probative evidence presented. Godesky v. Provo City Corp., Utah, 690 P.2d. 541, 547. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact, in the absence of proof, or until proof can be obtained or produced to overcome the inference. See also Presumptive evidence."
[Black's Law Dictionary, Sixth Edition, p. 1190]

"A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600."
[Black's Law Dictionary, Sixth Edition, p. 1185]

4. The court made an unlawful Declaratory Judgment about the meaning of the word "employee", which 28 U.S.C. §2201(a) says they cannot lawfully do in the context of "taxes".
5. The court deprived the litigant of equal protection of the law by refusing him the EQUAL right to presume that he was NOT included. Consequently, they have created an unconstitutional "Title of Nobility", whereby only judges are among the privileged class of persons who can lawfully make such "presumptions".

6. The effect of their prejudicial presumption personally and financially benefited them, because all judges are "taxpayers" and their pay and benefits directly derive from the tax that was at issue, resulting in a conflict of interest in violation of 28 U.S.C. §144, 28 U.S.C. §455, and 18 U.S.C. §208.
7. The court did not point out that the term "individual" can only include "public officers" and not private individuals.

> *"the term employee refers to every individual who performs services at the direction or control of another. See 26 CFR § 31.3306(I)-1(b)"*

The ability to regulate private conduct is "repugnant to the constitution", and therefore the only thing the government can regulate are the activities of its own employees and officers.

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

In fact, the term "individual" is deliberately nowhere defined in the I.R.C. and the definition found at 5 U.S.C. §552a(a)(2) identifies all "individuals" as federal employees and officers.

13.2.4 Pabon v. Commissioner, T.C. Memo 1994-476

Contention:

> *In Pabon v. Commissioner, T.C. Memo 1994-476, the petitioner alleged, among other things, that he "is not an employee of the Federal or state governments, is not engaged in a revenue taxable activity of alcohol, tobacco or firearms and therefore not subject to any exise [sic] tax...." The court concluded that the petition "is nothing but tax protester rhetoric and legalistic gibberish...."*

Rebuttal:

The tax court is not in the judicial branch, but is an Article I administrative agency in the Legislative branch of the government. Even the IRS refuses to impute any authority to a Tax Court ruling beyond the individual who litigated the case. See I.R.M. Section 4.10.7.2.9.8:

> *Internal Revenue Manual*
> *4.10.7.2.9.8 (01-01-2006)*
> *Importance of Court Decisions*
>
> *1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.*
>
> *3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.*
> *[SOURCE: http://www.irs.gov/irm/part4/ch10s11.html]*

If the IRS isn't bound by decisions below the U.S. Supreme Court, then neither can the average American be expected to change or alter their position either. This is a requirement of the equal protection of the laws that is the foundation of the United States Constitution

13.3 Other Resources for direct rebuttal

The following resources on our website are helpful in rebutting arguments against the conclusions of this pamphlet:

1. *Flawed Tax Arguments to Avoid*, Form #08.004
   http://sedm.org/Forms/FormIndex.htm
   1.1. Section 5.3: Only Federal Workers are Subject to the Internal Revenue Code
   1.2. Section 5.10: Only federal employees or federal officeholders need to complete Form W-4
2. *Rebutted Version of the IRS Pamphlet: "The Truth About Frivolous Tax Arguments"*, Form #08.005
   http://sedm.org/Forms/FormIndex.htm
   2.1. Section I.C.4: The only "employees" subject to federal income tax are employees of the federal government.

14 Conclusions

The Internal Revenue Code represents a constitutional taxing plan for two entirely separate and completely distinct legal and political communities, each with its own citizens, subjects, and unique characteristics: the "national" government and the "federal" government. These two communities are and must continue to remain completely separate as a result of the separation of powers doctrine that is at the heart of the United States Constitution. This separation was put there by the framers of the Constitution for the protection of our liberties and rights:

> *"We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961).* ***This constitutionally mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties."*** ***Gregory v. Ashcroft, 501 U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front."*** *Ibid. "*
> *[U.S. v. Lopez, 514 U.S. 549 (1995)]*

> *"The people of the United States, by their Constitution, have affirmed a division of internal governmental powers between the federal government and the governments of the several states-committing to the first its powers by express grant and necessary implication; to the latter, or [301 U.S. 548, 611] to the people, by reservation, 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the States.' The Constitution thus affirms the complete supremacy and independence of the state within the field of its powers. Carter v. Carter Coal Co., 298 U.S. 238, 295 , 56 S.Ct. 855, 865. The federal government has no more authority to invade that field than the state has to invade the exclusive field of national governmental powers; for, in the oft-repeated words of this court in Texas v. White, 7 Wall. 700, 725, 'the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National government.' The necessity of preserving each from every form of illegitimate intrusion or interference on the part of the other is so imperative as to require this court, when its judicial power is properly invoked, to view with a careful and discriminating eye any legislation challenged as constituting such an intrusion or interference. See South Carolina v. United States, 199 U.S. 437, 448 , 26 S.Ct. 110, 4 Ann.Cas. 737."*
> *[Steward Machine Co. v. Davis, 301 U.S. 548 (1937)]*

> *The Constitution does not protect the sovereignty of States for the benefit of the States or state governments as abstract political entities, or even for the benefit of the public officials governing the States.* ***To the contrary, the Constitution divides authority between federal and state governments for the protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power." Coleman v. Thompson, 501 U.S. 722, 759 (1991) (BLACKMUN, J., dissenting). "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." Gregory v. [505 U.S. 144, 182] Ashcroft, 501 U.S., at 458 . See The Federalist No. 51, p. 323. (C. Rossiter ed. 1961).***
>
> ***Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the "consent" of state officials. An analogy to the separation of powers among the branches of the Federal Government clarifies this point. The Constitution's division of power among the three branches is violated where one branch invades the territory of another, whether or not the encroached-upon branch approves the encroachment.*** *In Buckley v. Valeo, 424 U.S. 1, 118 -137 (1976), for instance, the Court held that Congress had infringed the President's appointment power, despite the fact that the President himself had manifested his consent to the statute that caused the infringement by signing it into law. See*

National League of Cities v. Usery, 426 U.S., at 842 , n. 12. In INS v. Chadha, 462 U.S. 919, 944 -959 (1983), we held that the legislative veto violated the constitutional requirement that legislation be presented to the President, despite Presidents' approval of hundreds of statutes containing a legislative veto provision. See id., at 944-945. The constitutional authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.
[New York v. United States, 505 U.S. 144, 112 S.Ct. 2408, 120 L.Ed.2d. 120 (1992)]

States of the Union are "foreign countries" and "foreign states" with respect to federal taxing jurisdiction. This was explained by the U.S. Supreme Court and is also found in Black's Law Dictionary:

"The state governments, in their separate powers and independent sovereignties, in their reserved powers, are just as much beyond the jurisdiction and control of the National Government as the National Government in its sovereignty is beyond the control and jurisdiction of the state government."

*"...**a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation**..."*
[Mayer, etc. of the City of New York v. Miln., 36 U.S. 102, 11 Pet. 102, 9 L.Ed. 648 (1837)]

***"It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247 U.S. 251, 275 , 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.** The question in respect of the inherent power of that government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to consider. See, however, Jones v. United States, 137 U.S. 202, 212 , 11 S.Ct. 80; Nishimur Ekiu v. United States, 142 U.S. 651, 659 , 12 S.Ct. 336; Fong Yue Ting v. United States, 149 U.S. 698 , 705 et seq., 13 S.Ct. 1016; Burnet v. Brooks, 288 U.S. 378, 396 , 53 S.Ct. 457, 86 A.L.R. 747."*
[Carter v. Carter Coal Co., 298 U.S. 238 (1936)]

The determination of the Framers Convention and the ratifying conventions to preserve complete and unimpaired state self-government in all matters not committed to the general government is one of the plainest facts which emerge from the history of their deliberations. And adherence to that determination is incumbent equally upon the federal government and the states. State powers can neither be appropriated, on the one hand, nor abdicated, on the other. As this court said in Texas v. White, 7 Wall. 700, 725 --

the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

Every journey to a forbidden end begins with the first step, and the danger of such a step by the federal government in the direction of taking over the powers of the states is that the end of the journey may find the states so despoiled of their powers, or -- what may amount to the same thing -- so [298 U.S. 296] relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more than geographical subdivisions of the national domain. It is safe to say that, if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified.
[Carter v. Carter Coal Co., 298 U.S. 238 (1936)]

Foreign States: "Nations outside of the United States…Term may also refer to another state; i.e. a sister state. The term 'foreign nations', …should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense."
[Black's Law Dictionary, Sixth Edition, p. 648]

Foreign Laws: "The laws of a foreign country or sister state. In conflicts of law, the legal principles of jurisprudence which are part of the law of a sister state or nation. Foreign laws are additions to our own laws, and in that respect are called 'jus receptum'."
[Black's Law Dictionary, Sixth Edition, p. 647]

The revenue system documented by Subtitle A of the Internal Revenue Code is intended for the "national government" and not the "federal government", and applies primarily to the following three groups:

1. Public officers/employees domiciled in the federal zone and residing there: The tax imposed in 26 U.S.C. §1 against those domiciled in the federal zone engaged in a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26). This includes:

1.1. "U.S. citizens" who are described in 8 U.S.C. §1401 as persons born in the federal zone. See: http://famguardian.org/Subjects/LawAndGovt/Citizenship/WhyANational.pdf
1.2. "residents" who are all aliens and foreign nationals domiciled in our country.

2. Public officers/employees domiciled in the federal zone and traveling overseas: The tax is imposed under 26 U.S.C. §911 upon those domiciled in the federal zone who are traveling temporarily overseas and fall under a tax treaty The tax applies only to "trade or business" income which is recorded on an IRS Form 1040 and 2555. See also the Supreme Court case of *Cook v. Tait*, 265 U.S. 47 (1924).
3. Nonresident aliens receiving government payments: The tax imposed under 26 U.S.C. §871 on nonresident aliens with government income that is:
   3.1. Not connected with a "trade or business" under 26 U.S.C. §871(a) but originates from the federal zone.
   3.2. Connected with a "trade or business" under 26 U.S.C. §871(b).

There is no question that Subtitle A of the Internal Revenue Code is entirely constitutional and lawful when administered consistent with its legislative intent and consistent with the words that are clearly defined in 26 U.S.C. §7701. When Congress passed the first income tax in 1862 as an emergency to fund the Civil War, they passed an income tax mainly upon elected and appointed officers of the United States government. See:

12 Stat. 432, Sections 86-87
http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201862.pdf

There were other types of taxes included in the Revenue Act 1862, but these applied only within the territories, possessions and the District of Columbia only and not states of the Union. The tax on "employees" and "public offices" has survived since that time as the Subtitle A income tax upon a "trade or business". Only the "words or art" used to describe it have changed since then. The privileged excise taxable activity called a "trade or business", which is a public office in the U.S. Government, A.K.A. federal "employment", has become the nexus to invade the states and falsely claim jurisdiction to impose a federal income tax. The U.S. Supreme Court said the following of this stealthful tactic and all other efforts to license and tax within the states:

> *"Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for* ***granting*** *coasting* ***licenses****, licenses to pilots, licenses to trade with the Indians, and any other* ***licenses*** *necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*
>
> ***But very different considerations apply to the internal commerce or domestic trade of the States. Over this commerce and trade Congress has no power of regulation nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature.*** *The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects.* ***Congress cannot authorize a trade or business [a political office] within a State in order to tax it.****"*
> *[License Tax Cases, 72 U.S. 462, 18L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]*

Notice the phrase above: "Congress cannot authorize a trade or business [e.g. a "public office"] within a State in order to tax it." Since they know they can't "license" a "public office" in a state, then they worked around this problem by the following devious means"

1. They enacted the Social Security Act as a federal business trust.
2. They made the Social Security Business trust a wholly owned corporate subsidiary of the federal government. 28 U.S.C. §3002(15)(A) says the United States" is a federal corporation, and therefore the trust is simply an extension of a federal corporation.
3. They made all those who participate into "federal personnel" engaged in a "public office". See 5 U.S.C. §553a(a)(13).
4. They use the Social Security Number as a de facto "business license" for all those participating in federal franchises. They don't openly call it a business license, because they know they aren't allowed to license activities within a state of the Union. This presumption is very carefully concealed by the federal courts and when you point it out, they will ignore you rather than argue with you because it would destroy the gravy train of PLUNDER that pays their bloated salaries and retirement.

5. They illegally and unlawfully allowed persons in states of the Union to participate. The Social Security program can only lawfully be offered to persons with a legal domicile on federal territory. This is confirmed by the definition of "State" found in 4 U.S.C. §110(d) and in the original Social Security Act of 1935, Section 1101(a)(2). It is unlawful to offer it to anyone domiciled in a state of the Union and doing so creates the equivalent of a false claim under the False Claims Act, 31 U.S.C. §3729. See:
   5.1. 20 CFR §422.104, which says that the program can only be offered to statutory "U.S. citizens" pursuant to 8 U.S.C. §1401 and statutory "residents" or "permanent residents" as defined in 26 U.S.C. §7701(b)(1)(A). A person born within and domiciled within the exclusive jurisdiction of a state of the Union is neither a statutory "U.S. citizen" or "resident". See:
   5.2. *Why You are Not Eligible for Social Security*, Form #06.001
   http://sedm.org/Forms/FormIndex.htm

If you want to see how the above scam works, see:

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

However, what was originally intended mainly as a municipal income tax for employees and "public offices" of the District of Columbia and "national government" has been misrepresented and misapplied towards people in states of the Union in violation of the Separation of Powers Doctrine that is the heart and soul of the United States Constitution. See:

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

The American people, the federal courts, and the legal profession have not lived up to their duty to prevent such stealthful encroachments upon their liberty, which has lead to the growth of a massive tumor on the body politic that is leading to an erosion of our liberties and freedoms, morality, and standard of living.

The main thing that has changed since the original income tax was passed in 1862 to fund the Civil War is the morality and integrity of those who administer our tax system, and that morality and integrity has seriously eroded to the point where the tax system we have now completely violates the foundational principles of our government documented in the Declaration of Independence: consent of the governed. The requirement for consent is being completely disregarded, and our government has become a terrorist government that operates either by disguising the requirement for consent or ignoring it entirely in the administration of our tax system.

There have been many dastardly attempts over the years since the passage of the Sixteenth Amendment by covetous federal politicians, IRS employees, and federal judges to break down this separation of powers and convince Americans domiciled in states of the Union that they are subject to a municipal "national" income tax that has never applied outside of the federal zone. These efforts by covetous political leaders at breaking down the separation of powers are accomplished mainly through the following means. Additional means are documented in Chapters 5 and 6 of the free *Great IRS Hoax* book:

1. Political propaganda. See:
   1.1. *Rebutted Version of the IRS Pamphlet: "The Truth About Frivolous Tax Arguments"*, Form #08.005. See:
   http://sedm.org/Forms/FormIndex.htm
   1.2. *Rebutted Version of Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax*, Form #08.006. See: http://sedm.org/Forms/FormIndex.htm
2. Deception using words of art found in the tax code, including "United States", "State", "trade or business", "personal services", "employee", etc. See:
   Meaning of the Words "includes" and "including", Form #05.014
   http://sedm.org/Forms/FormIndex.htm
3. Dumbing down Americans about law and legal subjects in high school. Our public schools have become prisons, not places of learning, because teachers Unions and government have conspired to lower standards, and yet force parents to keep their kids there by interfering with efforts to introduce school vouchers.
4. Dumbing down of the legal profession. Certain key words have been removed from all legal dictionaries in print, or obfuscated, including definitions of key words like "United States", "State", "income tax", "excise tax", "domicile".

5. Attorney licensing has created a conflict of interest and censorship with attorneys in objectively defending their clients between their fiduciary duty to the client and the fear of losing their license for aggressively challenging illegal enforcement of income tax codes. See: http://famguardian.org/Subjects/LawAndGovt/LegalEthics/Corruption/WhyYouDontWantAnAtty/WhyYouDon'tWantAnAttorney.htm
6. Licensing of tax professionals, CPAs, and tax preparers through the Treasury Circular 230 has created a conflict of interest and censorship.
7. Harassing and terrorizing those who try to inform the public about this corruption. See: http://famguardian.org/PublishedAuthors/Govt/TaxHonestyPersecution/TaxHonPersec.htm
8. Corruption of the court system using the income tax. This corruption is described throughout chapter 6 and sections 2.8.13 through 2.8.13.8.11 of the free *Great IRS Hoax* book. For the first approx. 170 years of this country, federal judges were not subject to income taxes, but starting in 1932, the first income tax against them was used to destroy their neutrality and enlist them to war against the rights of Americans. It was done in violation of the Constitutional prohibition against reducing judges salaries but the U.S. Supreme Court in 1938 made this tax permanent by not declaring it unconstitutional in the case of *O'Malley v. Woodrough*. Everything has been downhill since then because, as Alexander Hamilton put it in the Federalist Papers:

> *"In the general course of human nature, A POWER OVER A MAN's SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL."*
> *[Alexander Hamilton, The Federalist, No. 79]*

This corruption of the federal judiciary was simply an emulation of the SAME corruption within the British System that we fought a revolution to free ourselves from:

> *"He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries."*
> *[Declaration of Independence]*

Below is what the U.S. Supreme Court said about its role at preventing such a breakdown, which it has not lived up to:

> *"It may be that* ***it…is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed.*** *A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance.* ***It is the duty of the courts to be watchful for the constitutional rights of the citizens, and against any stealthy encroachments thereon. Their motto should be obsta prinicpalis.*** *" [Mr. Justice Brewer, dissenting, quoting Mr. Justice Bradley in Boyd v. United States, 116 U.S. 616, 29 L.Ed. 746, 6 Sup.Ct.Rep. 524]*
> *[Hale v. Henkel, 201 U.S. 43 (1906)]*

Family Guardian has also assembled a brief, historical, and pictorial presentation that shows exactly how our liberties have been destroyed and undermined over the years by scoundrel lawyers and politicians in the presentation below, if you would like further information:

How Scoundrels Corrupted Our Republican Form of Government
http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm

Only We the People can correct this corruption of our American legal and political systems which has been carefully engineered to destroy the separation of powers doctrine and consolidate all political power in Washington D.C. We must do it as voter, as jurists, and eventually with a revolution if need be:

> *"In America, freedom and justice have always come from the ballot box, the jury box, and when that fails, the cartridge box."*
> *[Steve Symms, U.S. Senator, Idaho]*

Thomas Jefferson, one of our most beloved founding fathers and the author of our Declaration of Independence, warned us about the dangers of this consolidation of power into the hands of the federal government and predicted everything that has happened to date in destroying the separation of powers when he said:

"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated."
[Thomas Jefferson to Charles Hammond, 1821. ME 15:332]

"Our government is now taking so steady a course as to show by what road it will pass to destruction; to wit: by consolidation first and then corruption, its necessary consequence. The engine of consolidation will be the Federal judiciary; the two other branches the corrupting and corrupted instruments."
[Thomas Jefferson to Nathaniel Macon, 1821. ME 15:341]

"The [federal] judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass."
[Thomas Jefferson to Archibald Thweat, 1821. ME 15:307]

"There is no danger I apprehend so much as the consolidation of our government by the noiseless and therefore unalarming instrumentality of the Supreme Court."
[Thomas Jefferson to William Johnson, 1823. ME 15:421]

"I wish... to see maintained that wholesome distribution of powers established by the Constitution for the limitation of both [the State and General governments], and never to see all offices transferred to Washington where, further withdrawn from the eyes of the people, they may more secretly be bought and sold as at market."
[Thomas Jefferson to William Johnson, 1823. ME 15:450]

"What an augmentation of the field for jobbing, speculating, plundering, office-building and office-hunting would be produced by an assumption of all the State powers into the hands of the General Government!"
[Thomas Jefferson to Gideon Granger, 1800. ME 10:168]

"I see,... and with the deepest affliction, the rapid strides with which the federal branch of our government is advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all powers, foreign and domestic; and that, too, by constructions which, if legitimate, leave no limits to their power... It is but too evident that the three ruling branches of [the Federal government] are in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves all functions foreign and domestic."
[Thomas Jefferson to William Branch Giles, 1825. ME 16:146]

"We already see the [judiciary] power, installed for life, responsible to no authority (for impeachment is not even a scare-crow), advancing with a noiseless and steady pace to the great object of consolidation. The foundations are already deeply laid by their decisions for the annihilation of constitutional State rights and the removal of every check, every counterpoise to the engulfing power of which themselves are to make a sovereign part."
[Thomas Jefferson to William T. Barry, 1822. ME 15:388]

For further quotes supporting the above, see:

Thomas Jefferson on Politics and Government http://famguardian.org/Subjects/Politics/ThomasJefferson/jeff1060.htm

15 Resources for Further Study and Rebuttal

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:

1. *Proof That There is a "Straw Man"*, Form #05.042-proves that the "public office" is the straw man who is the subject of most federal legislation. Explains why and how it was created
   http://sedm.org/Forms/FormIndex.htm
2. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037-expands upon the content of this pamphlet.
   http://sedm.org/Forms/FormIndex.htm
3. Liberty University- Free educational materials for regaining your sovereignty as an entrepreneur or private person
   http://sedm.org/LibertyU/LibertyU.htm
4. *Family Guardian Website, Taxation page*-lots of useful resources on the tax subject
   http://famguardian.org/Subjects/Taxes/taxes.htm
5. *Great IRS Hoax*, Form #11.302 book, and especially sections 5.6.11 and 5.6.13 through 5.6.13.12. Free downloadable electronic book
   http://sedm.org/Forms/FormIndex.htm
6. *Sovereignty Forms and Instructions Online*, Form #10.004
   http://sedm.org/Forms/FormIndex.htm
7. *Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?*, Form #05.013
   http://sedm.org/LibertyU/LibertyU.htm
8. *What to Do when the IRS Comes Knocking*, Form #09.002
   http://sedm.org/Forms/FormIndex.htm
9. *Rebutted Version of the IRS Pamphlet: "The Truth About Frivolous Tax Arguments"*, Form #08.005
   http://sedm.org/Forms/FormIndex.htm
10. *Reasonable Belief About Income Tax Liability*, Form #05.007- documents what you can trust in reaching a conclusion about your tax responsibilities.
    http://sedm.org/Forms/FormIndex.htm

16 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.

1. Admit that the term "employee" is defined in 26 U.S.C. §3401(c) as follows:

> *26 U.S.C. Sec. 3401(c) Employee*
>
> *For purposes of this chapter, the term "employee" includes [is limited to] an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

2. Admit that the term "employee" is defined in 26 CFR §31.3401(c)-1 as follows:

> *26 CFR §31.3401(c)-1 Employee:*
>
> *"...the term [employee] includes officers and employees, whether elected or appointed, **of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing**. The term 'employee' also includes an **officer of a corporation**."*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

3. Admit that any payment made to an individual by the federal government using money collected through its lawful taxing powers must be made for a "public purpose", or it amounts to what the Supreme Court calls "robbery in the name of taxation".

> ***To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.***
>
> ***Nor is it taxation. 'A tax,' says Webster's Dictionary, 'is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.' 'Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.' Cooley, Const. Lim., 479.***
>
> *Coulter, J., in Northern Liberties v. St. John's Church, 13 Pa. St., 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**' See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra."*
> *[Loan Association v. Topeka, 20 Wall. 655 (1874)]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

4. Admit that unless the recipient of a federal payment is either a federal "employee", a contractor, or agent receiving compensation for work related only to his official duties as such agent or contractor, then the funds are being used for a "private purpose" rather than "public purpose".

> *"**Public purpose**. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals]. "Public purpose" that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. Pack v. Southwestern Bell Tel. & Tel. Co., 215 Tenn. 503, 387 S.W.2d. 789, 794.*
>
> *The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."*

[Black's Law Dictionary, Sixth Edition, p. 1231, Emphasis added]

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

5. Admit that Social Security, Medicare, FICA, and all other such federal benefit programs constitute federal payments to individuals.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

6. Admit that participation in Social Security, Medicare, FICA, or any other federal benefit program makes the recipient into a federal instrumentality either through an employment or contract relationship.

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a
§ 552a. Records maintained on individuals

(a) Definitions.— For purposes of this section—

***(13)** the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), **individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits)**.*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

7. Admit that the authority for state income taxes derives from 4 U.S.C. §106:

TITLE 4 > CHAPTER 4 > § 106
§ 106. Same; income tax

(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

8. Admit that the authority for state income taxes upon federal "employees" derives from 5 U.S.C. §5517:

TITLE 5 > PART III > Subpart D > CHAPTER 55 > SUBCHAPTER II > § 5517
§ 5517. Withholding State income taxes

(a) When a State statute—

*(1) provides for the collection of a tax either by **imposing on [government] employers** generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and*

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of ***each agency of the United States*** *shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting "who are residents of the State with which the agreement is made" for "whose regular place of Federal employment is within the State with which the agreement is made".*

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, "State" means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms "serve as a member of the armed forces" and "service as a member of the Armed Forces" include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

9. Admit that the "employment" they are referring to is only federal government employment.

§ 31.3121(b)-3 Employment; services performed after 1954.

(a) In general. Whether services performed after 1954 constitute employment is determined in accordance with the provisions of section 3121(b).

(b) Services performed within the United States [federal zone].

Services performed after 1954 within the United States (see §31.3121(e)–1) by an employee for his employer, unless specifically excepted by section 3121(b), constitute employment. With respect to services performed within the United States, the place where the contract of service is entered into is immaterial. The citizenship or residence of the employee or of the employer also is immaterial except to the extent provided in any specific exception from employment. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment.

"(c) Services performed outside the United States—(1) In general. ***Except as provided in paragraphs (c)(2) and (3) of this section, services performed outside the United States (see §31.3121(e)–1) do not constitute employment."***

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

10. Admit that tax imposed by 5 U.S.C. §5517 is a tax on federal "employees":

TITLE 5 > PART III > Subpart D > CHAPTER 55 > SUBCHAPTER II > § 5517
§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally

the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting "who are residents of the State with which the agreement is made" for "whose regular place of Federal employment is within the State with which the agreement is made".

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, "State" means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms "serve as a member of the armed forces" and "service as a member of the Armed Forces" include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

11. Admit that the term "trade or business" is defined in 26 U.S.C. §7701(a)(26).

26 U.S.C. Sec. 7701(a)(26)

*"The term 'trade or business' includes the performance of **the functions** [activities] of a public office."*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

12. Admit that there are no other definitions or references in I.R.C. Subtitle A relating to a "trade or business" which would change or expand the definition of "trade or business" above to include things other than a "public office".

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

13. Admit that a "trade or business" is an "activity".

"Trade or Business in the United States

*Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. **Whether you are engaged in a trade or business in the United States depends on the nature of your activities.** The discussions that follow will help you determine whether you are engaged in a trade or business in the United States."*
[IRS Publication 519, p. 15, Year 2000, emphasis added]

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

14. Admit that all excise taxes are taxes on privileged and/or licensed "activities".

> *"**Excise tax.** A tax imposed on the **performance of an act**, the engaging in an occupation, or the enjoyment of a privilege. Rapa v. Haines, Ohio Comm.Pl., 101 N.E.2d. 733, 735. A tax on the manufacture, sale, or use of goods or on the carrying on of an occupation or activity or tax on the transfer of property. "*
> *[Black's Law Dictionary, Sixth Edition, p. 563]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

15. Admit that holding "public office" in the United States government is an "activity".

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

16. Admit that those holding "public office" are described as "employees" within 26 CFR §31.3401(c)-1.

> *26 CFR §31.3401(c)-1 Employee:*
>
> *"...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a corporation."*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

17. Admit that one cannot be engaged in a "trade or business" WITHOUT ALSO being a federal "employee" as defined above.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

18. Admit that all revenues collected under the authority of I.R.C. Subtitle A in connection with a "trade or business" are upon the entity engaged in the "activity", who are identified in 26 U.S.C. §7701(a)(26) as those holding "public office".

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

19. Admit that the decision to hold public office is a voluntary personal employment decision that cannot be coerced.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

20. Admit that because holding public office is "voluntary", then all taxes based upon this activity must also be voluntary and therefore avoidable for those who do not engage in the taxable activity.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

21. Admit that the way to lawfully avoid taxes based on the activity of holding of a public office is to choose not to involve oneself in the activity.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

22. Admit that there are no taxable "activities" mentioned anywhere within Subtitle A of the Internal Revenue Code except that of a "trade or business" as defined within 26 U.S.C. §7701(a)(26).

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

23. Admit that all taxes falling upon "public officers" are upon the "office" or position of "agency", and not upon the private person during his off-duty, non-employment time.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

24. Admit that a tax upon a "public office" rather than directly upon a natural person is an "indirect" rather than a "direct" tax within the meaning of the Constitution Of the United States.

> *"Direct taxes bear immediately upon persons, upon the possession and enjoyment of rights; indirect taxes are levied upon the happening of an event as an exchange."*
> *[Knowlton v. Moore, 178 U.S. 41 (1900)]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

25. Admit that ***all*** earnings originating within the "United States" defined in 26 U.S.C. §7701(a)(9) and (a)(10) fall within the classification of a "trade or business" under 26 U.S.C. §864(c)(3).

> *TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864*
> *§864. Definitions and special rules*
>
> *(c) Effectively connected income, etc.*
>
> *(3) Other income from sources within United States*
>
> *All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.*
>
> _____
>
> *Income Subject to Tax*
>
> *Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.*
> *[IRS Publication 519, Year 2000, p. 26]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

26. Admit that the amount of "taxable income" defined in 26 U.S.C. §863 that a person must include in "gross income" within the meaning of 26 U.S.C. §61 is determined by their earnings from a "trade or business" plus any earnings of "nonresident aliens" coming under 26 U.S.C. §871(a).

> *TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > Sec. 863.*
> *Sec. 863. - Special rules for determining source*
>
> *(a) Allocation under regulations*
>
> *Items of gross income, expenses, losses, and deductions, other than those specified in sections 861(a) and 862(a), shall be allocated or apportioned to sources within or without the United States, under regulations prescribed by the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the taxable income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as taxable income from sources within the United States.*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

27. Admit that the IRS Form 1040 is filed by those domiciled in 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]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

28. Admit that "citizens" and "residents" of the United States have in common a "domicile" within the "United States".

> *26 CFR §1.1-1(c): Income Tax on individuals*
>
> *(c) Who is a citizen.*
>
> *Every person born or naturalized in the [federal] United States and subject to its [exclusive federal jurisdiction under Article 1, Section 8, Clause 17 of the Constitution] jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481-1489), Schneider v. Rusk, (1964) 377 U.S. 163, and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. 1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.*
> *[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7332, 39 FR 44216, Dec. 23, 1974]*
>
> _____
>
> *26 U.S.C. §7701(b)(1)(A) Resident alien*
>
> *(b) Definition of **resident alien** and nonresident alien*
> *(1) In general*
> *For purposes of this title (other than subtitle B) -*

*(A) **Resident alien***

***An alien individual shall be treated as a resident of the United States** with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):*
(i) Lawfully admitted for permanent residence
Such individual is a lawful permanent resident of the United States at any time during such calendar year.
(ii) Substantial presence test
Such individual meets the substantial presence test of paragraph (3).
(iii) First year election
Such individual makes the election provided in paragraph (4).

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

29. Admit that a person without a "domicile" in the "United States" and with no income from sources within the "United States" is a "nontaxpayer" not subject to the Internal Revenue Code:

TITLE 26 > Subtitle F > CHAPTER 79 > § 7701
§ 7701. Definitions

(31) Foreign estate or trust

(A) Foreign estate

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

(B) Foreign trust

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

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

30. Admit that a person may not be "subject to the jurisdiction" of the United States without either a domicile in the "United States" or some kind of employment, agency, or contract with the federal government.

IV. PARTIES > Rule 17.
Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;
(2) for a corporation, by the law under which it was organized [laws of the District of Columbia]; and
(3) for all other parties, by the law of the state where the court is located, except that:
(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and
(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.
[SOURCE: http://www.law.cornell.edu/rules/frcp/Rule17.htm]

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

31. Admit that the term "United States" is defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) as being limited to federal territory and possessions and no place else:

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

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

(9) United States

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

(10): State

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

Uniform Commercial Code (U.C.C.)
§ 9-307. LOCATION OF DEBTOR.

(h) [Location of United States.]

*The United States is located in the **District of Columbia**.*

[SOURCE:
http://www.law.cornell.edu/ucc/search/display.html?terms=district%20of%20columbia&url=/ucc/9/article9.htm#s9-307*]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

32. Admit that there are not additions to the above definition of "United States" that apply to Subtitle A of the I.R.C., and therefore under the rules of statutory Construction, what is not explicitly included may safely be presumed to be excluded by implication:

> *"**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*

See also:

Meaning of the Words "includes" and "including", Form #05.014
http://sedm.org/Forms/FormIndex.htm

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

33. Admit that the only kind of income that goes on an IRS Form 1040 is income "effectively connected with a trade or business"

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864
§864. Definitions and special rules

(c) Effectively connected income, etc.

(3) Other income from sources within United States

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

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

34. Admit that a "trade or business" is an excise taxable activity connected with federal "employment" and/or agency:

26 U.S.C. Sec. 7701(a)(26)

"The term 'trade or business' includes the performance of the functions of a public office."

_____

Public Office:
*"Essential characteristics of a '**public office**' are:*
(1) Authority conferred by law,
(2) Fixed tenure of office, and
*(3) Power to exercise some of the sovereign functions **of government**.*
(4) Key element of such test is that "officer is carrying out a sovereign function'.
(5) Essential elements to establish public position as 'public office' are:
Position must be created by Constitution, legislature, or through authority conferred by legislature.
Portion of sovereign power of government must be delegated to position,
Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
Duties must be performed independently without control of superior power other than law, and
Position must have some permanency."
[Black's Law Dictionary, Sixth Edition, p. 1230]

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

35. Admit that 4 U.S.C. §72 mandates that all public offices shall be exercised ONLY in the District of Columbia and not elsewhere except as expressly provided by an act of Congress:

TITLE 4 > CHAPTER 3 > § 72
§ 72. Public offices; at seat of Government

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

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

36. Admit that Congress has never legislatively created any "public offices" in states of the Union which could lawfully become the subject of an excise tax on a "public offices" or a "trade or business" as defined in 26 U.S.C. §7701(a)(26).

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

37. Admit that following the enactment of the first American personal income tax in 1862, the U.S. Supreme Court was called on to analyze whether it was Constitutional, and that the court admitted that Congress has no lawfully authority to establish any kind of privileged or licensed activity within a state of the Union in order to tax it.

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

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

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

38. Admit that the License Tax Cases above have never been overruled and their findings are STILL binding upon the I.R.S. and every other instrumentality of the federal government.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

39. Admit that 26 U.S.C. §7601 is the authority for the IRS to enforce the I.R.C. within "internal revenue districts".

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

40. Admit that the only remaining internal revenue district is the District of Columbia and that no part of any state of the Union is within the exterior boundaries of any internal revenue district.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

41. Admit that there is NO PROVISION OF LAW or Act of Congress which creates or authorizes internal revenue districts within any state of the Union, including 26 U.S.C. §7621.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

42. Admit that Congress cannot lawfully create an internal revenue district in a place where it has no legislative jurisdiction, and that the I.R.C. is "legislation".

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

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

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

43. Admit that based on the forgoing, the INTERNAL Revenue Service may enforce only INTERNAL to the federal government in the District of Columbia and internal to the federal zone, and has no lawful authority to operate within the states of the Union.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

44. Admit that Constitutional "due process" requires that all parties against whom a law may be enforced whose rights are adversely affected must be afforded "prior notice" of all such laws and an opportunity to provide their objections BEFORE the new or altered law may be enforced against them:

> *"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). Without proper prior notice to those who may be affected by a government decision, all other procedural rights may be nullified.*
> *[Administrative Law and Process in a Nutshell, Erest Gelhorn and Ronald M. Levin, West Publishing, ISBN 0-314-06683-7, 1997, p. 214]*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

45. Admit that the Federal Register is the method by which the federal government satisfies the due process requirement of the Constitution to provide "due notice" to persons domiciled in states of the Union of all laws which could be enforced against them.

> *TITLE 44 > CHAPTER 15 > § 1508*
> *§ 1508. Publication in Federal Register as notice of hearing*
>
> *A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, **shall be deemed to have been given to all persons residing within the States of the Union** and the District of Columbia, except in cases where notice by publication is insufficient in law, **when the notice is published in the Federal Register** at such a time that the period between the publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard is*

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

46. Admit that no statute or regulation which prescribes any kind of penalty can be enforced in a state of the Union without FIRST publishing it in the Federal Register:

> *TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552*
> *§ 552. Public information; agency rules, opinions, orders, records, and proceedings*
>
> *(a) Each agency shall make available to the public information as follows:*
>
> *(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—*
>
> *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.***

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

47. Admit that none of the criminal provisions of the Internal Revenue Code, 26 U.S.C. §7201 through §7217, have any implementing regulations published in the Federal Register.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

48. Admit that the only parties against whom any enactment of Congress may be directly enforced against without publication in the Federal Register of agency regulations are those parties who are part of the following groups specifically exempted from the requirement for publication in the Federal Register, which include
    48.1. "A military and foreign affairs function of the United States". 5 U.S.C. §553(a)(1).
    48.2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. §553(a)(2).
    48.3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". 44 U.S.C. §1505(a)(1).

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

49. Admit that before an Agency of the federal government may lawfully enforce any provision of law against a party domiciled in a state of the Union, they ***must*** have a reasonable belief based on legally admissible evidence that one of the following to requirements of law has been satisfied.
    49.1. That the person against whom enforcement is being attempted is a member of one of the groups specifically exempted from the requirement for publication in the Federal Register of statutes and/or implementing regulations.
    49.2. That the statute or implementing regulation they seek to enforce has been published in the Federal Register.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

Acknowledgment:

I declare under penalty of perjury as required under 26 U.S.C. §6065 that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of both the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not necessarily lower federal courts.

Name (print):_____

Signature:_____

Date:_____

Witness name (print):_____

Witness Signature:_____

Witness Date:_____