

**John Q. Public**

1234 Federal Slave Plantation Drive, Cage #13  
Washington, District of Criminals 66666

*“Revenue laws relate to taxpayers and not to non-taxpayers  
The latter are without their scope. No procedure is prescribed for non-taxpayers  
and no attempt is made to annul any of their Rights or Remedies in due course of law.  
**With them Congress does not assume to deal and they are neither  
of the subject nor of the object of the revenue laws.”**  
[[Economy Plumbing & Heating v. US](#), 470 F2d. (1972)]*

**January 1, 2006**

State of California  
Franchise Tax Board  
PO Box 942840  
Sacramento, CA 94240-0040

Cert. Mail#:

Year(s) in question: **2005**  
Taxpayer Identification Number (TIN)#: None  
Letter: California FTB4600K

Enclosed Exhibits:

- 1. Corrected Form 1098.
- 2. Original California FTB4600K
- 3. IRS Form W-8BEN and Affidavit of Citizenship, Domicile, and Tax Status.
- 4. Wrong Party Notice.
- 5. 1098 Interest: Request for Filing Response

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Dear Sir,

**SECTION 1: RESPONSE**

Thank you for sending me the Request for Tax Return dated **12/27/2005**, FTB4600K notifying me of the incorrect IRS Form 1098 reports from financial institutions with which I deal. I have attached:

- 1. The completed version of that Notice as Exhibit (2) to this correspondence.
- 2. Exhibit (5) Rebutting

I am a law-abiding American who wants to take responsibility for everything that I commit to. It is quite evident based on your notice that:

- 1. There was a serious mistake on the part of the mortgage company that submitted the IRS form 1098 to you. Amounts reported on blocks 1, 2, and 3 are incorrect because:
  - 1.1. I am a “nonresident alien” with no real property located in the “United States”, as defined in 26 U.S.C. §7701(a)(9) and (a)(10).

- 1.2. I am not engaged in a “trade or business”.
- 1.3. I am not subject to withholding, backup withholding, or W-2 reporting of any kind.  
Reasons for the above are further explained in the attached Exhibit (5), which I encourage you to rebut. Therefore, I have attached as Exhibit (1) corrected IRS form 1098’s. I am working diligently with the mortgage company to ensure that they do not make any more incorrect reports in the future. Until that time, I request that you discontinue sending notices based on these erroneous reports.
2. That there was also a serious mistake because an incorrect Social Security Number was indicated on your notice. In fact, I do not have a Social Security Number. I have included the Wrong Party Notice, Exhibit (4), which indicates all the details of why the number is wrong. Please correct your records to remove the incorrect Social Security Number, since I do not participate in that system, never qualified to participate, and do not wish to be unlawfully compelled to participate. Any efforts to wrongfully associate me with such a number are:
  - 2.1. A violation of 42 U.S.C. §408, which forbids compelled use of Social Security Numbers.
  - 2.2. Amount to compelled association in violation of the First Amendment to the United States Constitution.
  - 2.3. Amount to slavery in violation of the Thirteenth Amendment to the United States Constitution.
3. You are overlooking the fact that I am not an “employee” as defined in 26 U.S.C. §3401(c) or 26 CFR §31.3401(c)-1. Only federal agents, federal employees, federal contractors, or federal benefit recipients are engaged in a “trade or business”, which the activity that is taxed under Subtitle A of the Internal Revenue Code. If you disagree, please rebut the evidence supporting these conclusions contained in the admissions at the end of the pamphlet below:
  - 3.1. <http://sedm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf>
4. You are overlooking the fact that I am a nonresident alien under 26 U.S.C. §7701(b)(1)(B) with no earnings from the “United States” under 26 U.S.C. §871. Therefore, all of my earnings and my property are a “foreign estate” as defined in 26 U.S.C. §7701(a)(31) and I am a “nontaxpayer” not subject to the Internal Revenue Code. I have included Exhibit (3) as proof of my status as a “nonresident alien” and a “national” but not “citizen” under federal law. If you disagree, please rebut the evidence supporting these conclusions in the admissions at the end of the following pamphlet:
  - 4.1. <http://sedm.org/Forms/MemLaw/SFRsAssmtsIllegal.pdf>
5. You are overlooking the fact that I do not maintain a domicile or “permanent abode” anywhere in California or the “United States”. Instead, I am a Nonresident Alien and a “national” but not a “citizen” under federal law, as explained in Exhibit (3).
6. You are overlooking the fact that the real property in question is not a rental property that I derive no “gross income” from as defined in 26 U.S.C. §61. This is further explained in Exhibit (5), which I ask that you rebut.
7. You are overlooking the fact that I do not have any “trade or business” earnings from sources within the “State of” California. Therefore, I can have no taxable income. The definition of “State” found in Revenue and Taxation Code section 17018 confirms this:

*California Revenue and Taxation Code*

*17018. "State" includes the District of Columbia, and the possessions of the United States.*

*[SOURCE: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=17001-18000&file=17001-17039.1>]*

Consistent with the above, corrected IRS form 1098’s are provided as Exhibit (1) which do not include a Social Security Number. You will also note that the erroneous number in your system allegedly relating to me is WRONG and must be removed immediately. If the number was provided to you by a third party, it was deliberately provided as the WRONG number while under the influence of unlawful duress. I would therefore also encourage you to contact those who are providing these erroneous reports with the number in question and tell them to discontinue using the number.

After you have corrected the erroneous reports of “wages” and “trade or business” earnings as requested above, if you still believe that I have a tax liability, please read Exhibit (5) and then rebut the evidence contained in the admissions at the end. in order that I might know what else I have not rebutted.

The reason I am citing federal law above as authority in my case is that:

1. Your authority for collecting state income taxes in California derives from federal law found in 4 U.S.C. §106 and 5 U.S.C. §5517. If you disagree, please provide a copy of the Agreement on Coordination of Tax Administration (ACTA) agreement between you and the Secretary of the Treasury.
2. California Revenue and Taxation Code, Section 17025.5d says that the Treasury Regulations under 26 CFR also apply to the R&TC.

A big reason that I have no state liability, is that I must first have a federal liability, which I do not.

If you have any questions, please do not hesitate to contact me and I would be happy to explain further. I am sorry for any inconvenience this may have caused you. If do not hear from you with a rebuttal within 30 days, I shall consider this matter resolved in my favor. If you respond, please:

1. Include a rebuttal to Exhibit (5) so that I may verify that you are lawfully exercising your authority. I am trying to avoid participating in clearly illegal enforcement or activity on your part.
2. Include a rebuttal to all facts and statements that you believe are untrue or incorrect, along with supporting evidence. Please do not cite any federal courts as authority, because I have no connection to the federal government as either a federal "employee" or a person with a domicile on federal territory.
3. Sign your response under penalty of perjury from a person who has personal knowledge of all facts concerned as required under 26 U.S.C. §6065. If you are not willing to take personal responsibility for your statements and sign them under penalty of perjury, then I will emulate your behavior and refuse to sign any of your forms, including tax forms, either.
4. Do NOT quote any federal caselaw from courts below the U.S. Supreme Court, because they are irrelevant to a person not domiciled on federal property and who has not contracts or employment with the federal government. This is further explained in Exhibit (5).

If you respond without providing the information above or without addressing the issues raised in this letter or use the word "frivolous" in your response, then your response shall also considered an agreement with everything in this correspondence and a default on your part. It would be irresponsible and a violation of your fiduciary duty as a public servant not to address the issues raised. You will also note the Federal Rule of Civil Procedure, Rule 8(d) says that anything not rebutted is admitted. That which you don't rebut in this letter shall be considered admitted on your part and constitute an estoppel against further controversy for all facts admitted.

## **SECTION 2: FALSE PRESUMPTIONS AND ERRORS AND ILLEGAL STATEMENTS IN YOUR LETTER**

*"Presumption of correctness which attends determination of Commissioner of Internal Revenue may be rebutted by showing that such determination is arbitrary or erroneous."  
[United States v. Hover, 268 F.2d 657 (1959)]*

Your letter indicated the following false presumptions:

1. Your letter described the requirements applicable to "taxpayers" but failed to establish *with evidence* why you think I am a "taxpayer". Please provide proof upon which I can rely so that I can promptly comply with your request to a "taxpayer". The proof I need in order to proceed is a completed version of Exhibit (5) appearing later. You are the moving party asserting that I am a "taxpayer" and therefore you have the burden of proof and must provide probative, credible evidence supporting every presumption you are making and I have not yet seen any such evidence and can't comply until I see such evidence.

[TITLE 5 - GOVERNMENT ORGANIZATION AND EMPLOYEES](#)  
[PART I - THE AGENCIES GENERALLY](#)  
[CHAPTER 5 - ADMINISTRATIVE PROCEDURE](#)  
[SUBCHAPTER II - ADMINISTRATIVE PROCEDURE](#)  
[Sec. 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision](#)

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The contents of this correspondence are copyrighted and may not be shared with third parties or entered into any kind of electronic information system or used for any kind of enforcement activity. The fee for violating the copyright is \$100,000. This letter and all attached documents have been made part of the Public Record and will be used for evidence in administrative and judicial proceedings at law, or equity regarding this American National, who by enacted federal law and the Legislative Intent of the 16<sup>th</sup> Amendment is a Non-Taxpayer as he is neither of the subject nor of the object of federal revenue laws. **All of these documents must be RECORDED and maintained in Claimant's Administrative PAPER, but not electronic File.**

*(d) Except as otherwise provided by statute, **the proponent of a rule or order has the burden of proof.** Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. **A sanction [or penalty] may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.***

2. Your letter presupposes that I am a federal “employee”. Federal Rule of Civil Procedure Rule 17(b) states that the capacity to sue or be sued in federal court is determined by: (1) The domicile of the defendant; (2) Agency as a corporate employee or officer. Your letter cited rulings from the federal courts that only apply if I either:

2.1. Maintain a domicile within federal territory, which I do not...OR

2.2. Am acting as a federal “employee”, agent, or contractor, all three of whom fall under the laws applicable to the domicile of the corporation, which in this case would be the United States government. 28 U.S.C. §3002(15)(A) identifies the “United States” as a corporation. All parties exercising agency with this entity are therefore subject to the laws of the District of Columbia, which incidentally is what the “United States” is defined as in 26 U.S.C. §7701(a)(9) and §7701(a)(10).

Consequently, I kindly ask that you either provide proof that I maintain a domicile on federal territory, or that I am a federal employee, contractor, or agent in the context of this collection effort.

3. Your letter addressed the WRONG person. My name is *not* “JOHN Q PUBLIC”. My name is “John Q. Public” and your records are WRONG. Someone else has the all caps name and it is NOT me and I resent having to answer mail for this fictitious person you created. What you are doing, essentially, amounts to identity theft and kidnapping. Treating me like a person who lives within federal jurisdiction and associating me with a fictitious commercial entity without my consent also amounts to kidnapping, in violation of California Criminal Code, Title 17A, section 301. Any money you collect in the presence of such kidnapping of my identity and duress amounts to false personation and extortion, which are violations of the California Criminal Code, sections 905-A and 210. Using a number that is not mine and which is not a “Taxpayer Identification Number” amounts to misuse of identification.
4. The “Account Number” is WRONG. Under 26 U.S.C. §6109, the IRS is ONLY authorized to require “Taxpayer Identification Numbers” to refer to “taxpayers”.

*26 CFR § 301.6109-1(b)*

*(b) Requirement to furnish one's own number--(1) U.S. persons. Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the*

The regulations also state that a Social Security Number is NOT a Taxpayer Identification Number and that TINs are ONLY associated with “aliens”, which I am not:

[26 CFR §301.6109-1\(d\)\(3\)](#)

*(3) IRS individual taxpayer identification number -- (i) Definition. **The term IRS individual taxpayer identification number means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term IRS individual taxpayer identification number does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term alien individual means an individual who is not a citizen or national of the United States.***

Taxpayer Identification Numbers (TINs) are only issued by submitted an IRS form W-7 or W-9, and I never submitted such a form to anyone. Please therefore provide a copy of the IRS form W-7 or W-9 that identifies me as the owner of a TIN. Absent such proof, please promptly remove all information associated with my name as being a “taxpayer”. Since I am not an alien, there is also no lawful authority to use an SSN as a substitute for a Taxpayer Identification Number either and if you disagree, I ask that you provide evidence that I am an “alien”.

### **SECTION 3 AFFIRMATION**

I declare under penalty of perjury from *without* the “United States” and the “State of California”, and from within the *Republic* of California under 28 U.S.C. §1746(1) that the foregoing facts and all enclosures are true, correct, and complete to the best of my knowledge and ability, but only when litigated in a California (not federal) Court with a jury trial and with all of the law and facts and evidence mentioned or referred to in this letter admitted into evidence for the jury to read and consider.

Constitutionally,

**John Q. Public**

American National

A Secured Party to the Constitution and its Protections

"Secured Party American who is 'One of The People' as contemplated in the Preamble for the Constitution of the United States of America and a Non-Taxpayer of the federal income tax as a result of being neither the subject nor the object of federal revenue laws."

## **EXHIBIT 1: CORRECTED FORM 1098**

This section contains corrected IRS Form 1098 for the source from which you obtained the false report that originated the need for your notice.

## **EXHIBIT 2: ORIGINAL CALIFORNIA FTB4600K NOTICE**

This section contains the original FTB notice that this correspondence responds to.

**EXHIBIT 3: IRS FORM W-8BEN AND AFFIDAVIT OF CITIZENSHIP, DOMICILE, and TAX STATUS**

This section contains IRS Form W-8BEN and the Affidavit of Citizenship, Domicile, and Tax Status clearly proving that I am outside of the purview of the California Statutes relating to income taxation.

## **EXHIBIT 4: WRONG PARTY NOTICE**

This section contains the Wrong Party Notice, which constitutes formal legal notice that you have used an incorrect identifying number and/or name, and that this collection action is therefore directed against the WRONG PARTY.

## **EXHIBIT 5: 1098 INTEREST: REQUEST FOR FILING RESPONSE**

This pamphlet clearly proves using positive law that:

1. You may not cite in your favor any case from the federal courts below the U.S. Supreme Court for a person domiciled in a state of the Union.
2. The only way you can cite a federal court below the U.S. Supreme Court is if you can prove that I am a federal “employee” with admissible evidence from someone with personal knowledge.
3. That you are presuming that I am a federal “employee” by citing federal caselaw in this case.
4. That your injurious presumptions are prejudicing my Constitutional rights and thereby causing you to violate your oath of office to support and defend the Constitution of the United States.

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