

**FEDERAL ENFORCEMENT AUTHORITY
WITHIN STATES OF THE UNION**

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1 Introduction

There is much controversy in the courts over what gives the federal government jurisdiction to enforce federal law within states of the Union. Most Americans are not educated about law in any public school and can go all the way through graduate school without learning any law. This makes them very easy prey for the unlawful exploitation of those employed by the government who are charged with enforcing the law. The knee jerk reaction of most Americans to any attempt to enforce the law by any government official consequently is usually blind, unquestioning allegiance, which in most cases results in the unlawful enlargement of federal jurisdiction, power, and control over the populace far beyond that contemplated by the Founding Fathers in drafting the Constitution of the United States of America. Below are some authorities on this important subject:

"The government of the United States has been emphatically termed a government of laws, and not of men."
[*Marbury v. Madison*, [5 U.S. 137](#); 1 Cranch 137, 2 L.Ed. 60 (1803)]

"No man [including a judge] in this country is so high that he is above the law. No officer of the law [such as YOU, a "public officer"] may set that law at defiance with impunity [by ignoring or evading his duties under it]. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives." 106 U.S., at 220. "Shall it be said... that the courts cannot give remedy when the Citizen has been deprived of his property [or his earnings from labor, which are also property] by force [and CONSTRUCTIVE FRAUD through OMISSION], his estate seized and converted to the use of the government without any lawful authority, without any process of law, and without any compensation, because the president has ordered it and his officers are in possession? If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights," 106 U.S., at 220, 221.
[*United States v. Lee*, 106 U.S. 196, 1 S.Ct. 240 (1882)]

"Every citizen of the United States is supposed to know the law. . ."
[*Floyd Acceptances*, 7 Wall (74 U.S. 169) 666 (1869)]

"All persons in the United States are chargeable with knowledge of the Statutes-at-Large...[I]t is well established that anyone who deals with the government assumes the risk that the agent acting in the government's behalf has exceeded the bounds of his authority,"
[*Bollow v. Federal Reserve Bank of San Francisco*, 650 F.2d. 1093 (9th Cir. 1981)]

There is a good reason why in a society of law such as we have all citizens are required and presumed to know the law. The reason is that they are the sovereigns for whom our public servants work and the law is the only method by which the activities of these public servants can be directed and controlled. Those who through ignorance, dumbing-down in the public schools, and neglect do not know what the law requires their public servants to do cannot properly:

1. Supervise the activities of their public servants.
2. Recognize when their public servants are exceeding their lawful authority and committing a tort.
3. Expect a government that remains limited and does not unlawfully expand its authority and control over the populace under the "color of law".

The above explains why the Bible condemns ignorance and especially ignorance of the law:

"One who turns his ear from hearing the law, even his prayer is an abomination."
[*Prov. 28:9, Bible, NKJV*]

"And thou shalt teach them ordinances and laws [of both [God](#) and [man](#)], and shalt shew them the way wherein they must walk, and the work [of obedience to God] that they must do."
[[Exodus 18:20](#), Bible, NKJV]

"...it is not good for a soul to be without knowledge,"
[*Prov. 19:2, Bible, NKJV*]

1 "My people are destroyed for lack of knowledge."
2 [Hosea 4:6, Bible, NKJV]

3 We have a society that is an ABOMINATION that is HATED by our sister countries around the world because we don't
4 know how to keep our own government accountable to the laws that are already on the books and to FORCE it to stay
5 inside the ten mile square box the founders bequeathed to us for our protection. Therefore, it STEALS as much of our
6 money as it wants, invades other countries on false pretenses, and continually expands its power and influence like some
7 pagan deity.

8 It is the goal of this memorandum of law to therefore establish the main criteria by which concerned Americans may
9 recognize when the federal government is exceeding its authority on occasions when they become the target of any kind of
10 enforcement action. Knowledge of this subject is VERY important because it is the ONLY method you can use to protect
11 your Constitutionally rights from unwarranted and unlawful encroachments by errant public DIS-servants. The U.S.
12 Supreme Court has said that ONLY the citizen has this responsibility to ensure that the government stays within its lawful
13 bounds.

14 "The Government may carry on its operations through conventional executive agencies or through corporate
15 forms especially created for defined ends. See *Keifer & Keifer v. Reconstruction Finance Corp.*, 306 U.S. 381,
16 390, 518. Whatever the form in which the Government functions, anyone entering into an arrangement
17 with the Government takes the risk of having accurately ascertained that he who purports to act for the
18 Government stays within the bounds of his authority. The scope of this authority may be explicitly defined by
19 Congress or be limited by delegated legislation, properly exercised through the rule-making power. And this
20 is so even though, as here, the agent himself may have been unaware of the limitations upon his authority. See,
21 e.g., *Utah Power & Light Co. v. United States*, 243 U.S. 389, 409, 391; *United States v. Stewart*, 311 U.S. 60,
22 70, 108, and see, generally, *In re Floyd Acceptances*, 7 Wall. 666."
23 [Federal Crop Ins. V. Merrill, 332 U.S. 380 (1947)]

24 The implication of the above is that every American who cares about preserving the liberties and freedoms that we all hold
25 so dear MUST make it their continuing responsibility to study and learn the law and to carefully and jealously guard their
26 freedoms by watching their public servants like a hawk and blowing the whistle and properly and effectively litigating in
27 defense of their rights whenever these servants step outside the ten mile square box that our Constitution puts them inside
28 of. On this subject, Thomas Jefferson, one of our most revered founding fathers, said the following:

29 "It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety
30 of our rights... Confidence is everywhere the parent of despotism. Free government is founded in jealousy,
31 and not in confidence. It is jealousy and not confidence which prescribes limited constitutions, to bind down
32 those whom we are obliged to trust with power... Our Constitution has accordingly fixed the limits to which,
33 and no further, our confidence may go... In questions of power, then, let no more be heard of confidence in
34 man, but bind him down from mischief by the chains of the Constitution."
35 [Thomas Jefferson: Draft Kentucky Resolutions, 1798. ME 17:388]

36 "Leave no authority existing not responsible to the people."
37 [Thomas Jefferson to Isaac H. Tiffany, 1816. ME 15:66]

38 "Unless the mass retains sufficient control over those entrusted with the powers of their government, these will
39 be perverted to their own oppression, and to the perpetuation of wealth and power in the individuals and their
40 families selected for the trust. Whether our Constitution has hit on the exact degree of control necessary, is yet
41 under experiment."
42 [Thomas Jefferson to M. van der Kemp, 1812. ME 13:136]

43 **2 What is Enforcement Authority?**

44 Governments are established in order to protect and defend private rights by the following means:

- 45 1. **Criminally:** Using the criminal laws and the police powers that implement them.
- 46 2. **Civilly:** Using the civil laws and civil courts to protect persons who consent to their jurisdiction by choosing a
47 domicile within the territory of the sovereign.
- 48 3. **Administratively:** Using the statutes and regulations and agencies that implement government franchises. These types
49 of "administrative enforcements" may only be attempted against those who consented in writing, usually by the
50 application in writing for a license or benefit of some kind.

1 Government enforcement actions are actions which adversely affect the constitutionally protected rights or statutory
2 privileges of the parties who are the subject of the enforcement. The process of recognizing when your constitutional rights
3 have been injured begins with learning and knowing all these rights. We have taken the time to enumerate most of these
4 rights to save you time in this learning process:

Enumeration of Inalienable Rights, Form #10.002
<http://sedm.org/Forms/FormIndex.htm>

5 Of the three types of enforcement that governments engage in above, the last two require some kind of consent. Civil
6 protection requires a voluntary choice of domicile within the jurisdiction of the government and Administrative Protection
7 requires you to apply for either a license or a government benefit at some time. Administrative protection is typically
8 implemented using civil laws and only those therefore who have a domicile within the jurisdiction of the enforcing agency
9 may therefore become the lawful target of enforcement.

10 If you would like to learn more about how administrative enforcement is implemented, which is item 3 above, see:

Administrative Law and Process in a Nutshell, Fourth Edition, Ernest Gellhorn, 1990, West Publishing

11 Enforcement authority is also called “distrain” in some statutes. Below is an example of the only type of “distrain”
12 authorized within the Internal Revenue Code:

13 [TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > Sec. 6331.](#)
14 [Sec. 6331. Levy and distraint](#)

15 (a) Authority of Secretary

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

27 (b) Seizure and sale of property

28 *The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as*
29 *otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at*
30 *the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize*
31 *and sell such property or rights to property (whether real or personal, tangible or intangible).*

32 Typically, the IRS conceals the very limited nature of their actual enforcement authority by conveniently omitting
33 paragraph (a) from their levy notices, which is IRS Form 668(W) and IRS Form 668(A)(c). They do this to encourage the
34 unlawful application of the revenue laws because they love your money more than they love justice or obeying the law. IN
35 fact, they are CRIMINALS for doing this who are breaching their fiduciary duty to protect the public by making such a
36 malicious and injurious omission. If you would like to see the evidence of this for yourself, see Section 6.3 of the
37 following:

Federal Response Letters
<http://sedm.org/SampleLetters/Federal/FedLetterAndNoticeIndex.htm>

38 It is precisely the above type of “gamesmanship” by the IRS that explains why the content of this document should be of
39 extreme importance to you: because it is the ONLY method you will ever get the WHOLE scoop about what the
40 government can and cannot do. The government will NEVER give you the whole story because quite frankly, they can’t be
41 trusted and are engaging in criminal activity. In that sense, they are predators, an organized crime syndicate, and a
42 protection racket, not a “protectors” of your rights.

3 Requirement for “Force of law”

Consent of the governed is the origin of all just authority of any government to “make” or “enact” law, according to the Declaration of Independence:

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

Consistent with the above, it is also a maxim of law that the authority to make law derives from the consent against whom it is enforced:

Consensus facit legem.
Consent makes the law. A contract is a law between the parties, which can acquire force only by consent.
[Bouvier’s Maxims of Law, 1856;
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

In law, any civil force applied to a “person” who does not consent is presumed to be “unlawful force”:

Unlawful force. Force, including confinement, which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or actionable tort or would constitute such offense or tort except for a defense (such as the absence of intent, negligence, or mental capacity; duress; youth; or diplomatic status) not amounting to a privilege to use the force. Assent constitutes consent, within the meaning of this Section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious bodily harm. Model Penal Code, 5 3.11.
[Black’s Law Dictionary, Fifth Edition, p. 580]

Once consent in some form has been procured, there is no basis or standing to proceed in court to reclaim damages from any injury that results from the thing consented to:

Volunt non fit injuria.
He who consents cannot receive an injury. 2 Bouv. Inst. n. 2279, 2327; 4 T. R. 657; Shelf. on mar. & Div. 449.

Consensus tollit errorem.
Consent removes or obviates a mistake. Co. Litt. 126.

Melius est omnia mala pati quam malo concentire.
It is better to suffer every wrong or ill, than to consent to it. 3 Co. Inst. 23.

Nemo videtur fraudare eos qui sciunt, et consentiunt.
One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145.
[Bouvier’s Maxims of Law, 1856;
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

Before a civil statute can therefore be enforced, meaning that force can be applied to compel obedience, it must have the “force of law” and therefore create a right in the government and a corresponding duty on the part of the person adversely affected by the enforcement.

Statutes which have the “force of law” are published as what is called “positive law”, which means that they may be used as legally admissible evidence of consent in any judicial proceeding where the “force of law” may be imposed upon the parties to the proceeding.

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

Therefore, to say that a statute is “positive law” means it is legal evidence that the parties against whom it could be enforced consented to its enforcement, and therefore that they have in effect waived their right to sue those who engage in the enforcement against them. These parties are “ the governed” mentioned in the Declaration of Independence.

1 Statutes that are not “positive law” are referred to as “special law”, meaning law they have the “force of law“ against only
2 those who individually rather than collectively consent. They behave as the equivalent of contracts between a private party
3 and a specific government:

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

15 “Special law” is an outgrowth of comity and your individual right to contract, whereby a government which is otherwise
16 foreign to a specific jurisdiction acquires specific/special jurisdiction over a specific person by procuring the consent of that
17 person in that respective jurisdiction.

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

26 The Declaration of Independence says that the rights of people protected by the Constitution are “inalienable”. An
27 inalienable right” is one that cannot be sold, bargained away, or transferred by any commercial process. This would have to
28 include franchises, because they are a commercial process:

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

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

36 The above is why the concept of “comity” had to be invented. Comity governs the relationship between people in states of
37 the Union and the federal government because the Constitution makes the two parties “foreign”, “sovereign”, and “alien” in
38 relation to each other for the purposes of legislative jurisdiction. The federal government cannot offer franchises within a
39 state of the Union, because it cannot entice people to surrender rights protected by the Constitution and thereby “alienate”
40 those rights, nor can it make any person or group of people unequal in relation to any other person by conveying “benefits”
41 to some that it does not convey to ALL. The only place where it can make people unequal is where the START unequal,
42 and the only place like that is federal territory not protected by the Constitution and all those domiciled there, who are
43 called statutory “U.S. citizens” under 8 U.S.C. §1401 and “resident aliens” under 26 U.S.C. §7701(b)(1)(A).

44 Whenever you want to sue a specific government in its own courts, the government will assert the judicial doctrine called
45 “sovereign immunity” and say that you as the moving party must produce a statute that evidences their express consent of
46 the government to be sued IN WRITING. If the government possesses that power, then you must have it also, because all
47 their authority was delegated by WE THE PEOPLE to the government”

48 “The question is not what power the federal government ought to have, but what powers, in fact, have been
49 **given by the people.. The federal union is a government of delegated powers. It has only such as are expressly**
50 **conferred upon it, and such as are reasonably to be implied from those granted. In this respect, we differ**
51 **radically from nations where all legislative power, without restriction or limitation, is vested in a parliament or**
52 **other legislative body subject to no restriction except the discretion of its members.”** (Congress)
53 *[U.S. v. William M. Butler, 297 U.S. 1 (1936)]*

1 "The Government of the United States is one of delegated powers alone. Its authority is defined and limited by
2 the Constitution. All powers not granted to it by that instrument are reserved to the States or the people."
3 [United States v. Cruikshank, [92 U.S. 542](#) (1875)]

4 "It is again to antagonize Chief Justice Marshall, when he said: 'The government of the Union, then (whatever
5 may be the influence of this fact on the case), is emphatically and truly a government of the people. In form and
6 in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them
7 and for their benefit. This government is acknowledged by all to be one of enumerated powers.' 4 Wheat. 404, 4
8 L.Ed. 601."
9 [Downes v. Bidwell, [182 U.S. 244](#) (1901)]

10 It is a maxim of law that the thing created, in this case the "government", cannot have any more powers or authority than
11 the thing that created it, which is WE THE PEOPLE:

12 *Derativa potestas non potest esse major primitiva.*
13 *The power which is derived cannot be greater than that from which it is derived.*
14 [Bouvier's Maxims of Law, 1856;
15 SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]

16 Hence, if the government wishes to enforce a civil obligation upon you in court, you must ALSO have the same EQUAL
17 right to impose the SAME EQUAL burden of proof upon them:

- 18 1. **Positive Law:** If they are enforcing a positive law, they must produce legally admissible evidence that:
19 1.1. The civil statute ought to be enforced is "positive law", meaning that the people of that jurisdiction collectively
20 consented to it...AND
21 1.2. You had a domicile in the territory of the sovereign that enacted that law as a "citizen" or "resident". The term
22 "citizenship" in the cite below really means "domicile"

23 "**The rights of the individual are not derived from governmental agencies, either municipal, state or federal,**
24 **or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are merely**
25 **reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by**
26 **the citizenship to the agencies of government. The people's rights are not derived from the government, but the**
27 **government's authority comes from the people.*946 The Constitution but states again these rights already**
28 **existing, and when legislative encroachment by the nation, state, or municipality invade these original and**
29 **permanent rights, it is the duty of the courts to so declare, and to afford the necessary relief. The fewer**
30 **restrictions that surround the individual liberties of the citizen, except those for the preservation of the public**
31 **health, safety, and morals, the more contented the people and the more successful the democracy."**

32 [City of Dallas v Mitchell, 245 S.W. 944 (1922)]

- 33 2. **Special Law:** They must produce legally admissible evidence that:
34 2.1. You were in a place not protected by the Constitution at the time, because you can't alienate rights protected by
35 the Constitution in a place that the Constitution applies, in relation to a REAL, de jure, government.
36 2.2. You consented to the obligation they are enforcing, and that your consent takes the form that YOU and not THEY
37 want it to take. If they can pass laws prescribing the form that their consent must take, then you must have the
38 same powers because they got that power from you. For instance, if they are enforcing a franchise, they must
39 produce a piece of paper signed by both YOU and the government in which both parties consented to the
40 agreement, and proving that they both had the delegated authority and capacity to consent. An "application"
41 signed by only one of the two parties does not constitute an enforceable contract because it does not evidence
42 express consent of BOTH parties.
43 2.3. You had the delegated authority to consent. If you are representing an artificial entity such as a trust, and the trust
44 indenture says you have no delegated authority to contract with any government, then it is a legal impossibility to
45 consent to give up any rights to that government. Another example is if you are representing God as a Christian
46 and a public officer of Heaven when you sign the contract. Your delegation of authority order from God says you
47 have NO AUTHORITY to contract with any government, and therefore, anything you sign conveys no rights and
48 prohibits any statute the government enacts regulating such an agreement as lacking the "force of law".

49 "You shall **make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan**
50 **government] gods [laws or judges]. They shall not dwell in your land [and you shall not dwell in theirs by**
51 **becoming a "resident" or domiciliary in the process of contracting with them], lest they make you sin against**
52 **Me [God]. For if you serve their [government] gods [under contract or agreement or franchise], it will surely**
53 **be a snare to you."**
54 [[Exodus 23:32-33](#), Bible, NKJV]

2.4. That they did not attempt to institute any duress upon you in procuring your consent to the agreement. Any contract created in the presence of duress is voidable not necessarily void.

“An agreement [consensual contract] obtained by duress, coercion, or intimidation is invalid, since the party coerced is not exercising his free will, and the test is not so much the means by which the party is compelled to execute the agreement as the state of mind induced.¹ Duress, like fraud, rarely becomes material, except where a contract or conveyance has been made which the maker wishes to avoid. As a general rule, duress renders the contract or conveyance voidable, not void, at the option of the person coerced,² and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it.³ However, duress in the form of physical compulsion, in which a party is caused to appear to assent when he has no intention of doing so, is generally deemed to render the resulting purported contract void.⁴”
[American Jurisprudence 2d, Duress, Section 21]

Most of the civil controversies you will have involving the government relate to the enforcement of civil franchises and are litigated in “franchise courts”, such as traffic court, family court, tax court, etc. A franchise court behaves as the equivalent of a binding arbitration board, and you must sign a contract or government “application” such as a franchise contract waiving your rights to a REAL, de jure Constitutional court in order to lawfully avail yourself of the “services” of such a tribunal:

“franchise court. Hist. A privately [meaning NOT government] held court that (usu.) exists by virtue of a royal grant [privilege], with jurisdiction over a variety of matters, depending on the grant and whatever powers the court acquires over time. In 1274, Edward I abolished many of these feudal courts by forcing the nobility to demonstrate by what authority (quo warranto) they held court. If a lord could not produce a charter reflecting the franchise, the court was abolished. - Also termed courts of the franchise.

Dispensing justice was profitable. Much revenue could come from the fees and dues, fines and amercements. This explains the growth of the second class of feudal courts, the Franchise Courts. They too were private courts held by feudal lords. Sometimes their claim to jurisdiction was based on old pre-Conquest grants ... But many of them were, in reality, only wrongful usurpations of private jurisdiction by powerful lords. These were put down after the famous Quo Warranto enquiry in the reign of Edward I.” W.J.V. Windeyer, Lectures on Legal History 56-57 (2d ed. 1949).”
[Black’s Law Dictionary, Seventh Edition, p. 668]

Franchises include, but are not limited to:

1. Federal income tax. Internal Revenue Code, Subtitles A and C.
2. Social Security. 42 U.S.C., Chapter 7.
3. The motor vehicle code in your state.
4. The family code in your state.

The nature of franchises and the above statutes as franchises is exhaustively established in the following:

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

All franchises are implemented as special law that is not positive law, but rather “prima facie” evidence. 1 U.S.C. §204 notes says that Titles 26 and 42 of the U.S. Code above are “prima facie evidence”. That which is “prima facie” is simply 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

¹ Brown v. Pierce, 74 U.S. 205, 7 Wall 205, 19 L.Ed. 134

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

³ Fiske v. Gershman, 30 Misc.2d. 442, 215 N.Y.S.2d. 144; Heider v. Unicume, 142 Or. 416, 20 P.2d. 384; Glenney v. Crane (Tex Civ App Houston (1st Dist)) 352 S.W.2d. 773, writ ref n r e (May 16, 1962)

⁴ Restatement 2d, Contracts § 174, stating that if conduct that appears to be a manifestation of assent by a party who does not intend to engage in that conduct is physically compelled by duress, the conduct is not effective as a manifestation of assent.

1 which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted,
2 is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by
3 other evidence. *State v. Haremza*, 213 Kan. 201, 515 P.2d. 1217, 1222.

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

11 Presumptions:

- 12 1. Cause an unconstitutional violation of [due process of law](#) because decisions are not based on legally admissible
13 evidence. Instead, presumptions unlawfully and prejudicially turn beliefs into evidence in violation of [Federal Rule of](#)
14 [Evidence 610](#) and the [Hearsay Rule, Rule 802](#).
- 15 2. Are very injurious to your rights and liberty.
- 16 3. Violate the [separation of powers](#) by allowing otherwise constitutional courts to unlawfully entertain "political
17 questions".
- 18 4. Turn judges into "priests" of a [civil religion](#).
- 19 5. Turn legal pleadings into "prayers" to the priest.
- 20 6. Turn legal process into an act of religion.
- 21 7. Transform "attorneys" into deacons of a [state-sponsored religion](#).
- 22 8. Turn the courtroom into a church building.
- 23 9. Turn court proceedings into a "worship service" akin to that of a church.
- 24 10. Turn statutes into a state-sponsored bible upon which "worship services" are based.
- 25 11. Turn "taxes" into tithes to a state-sponsored church, if the controversy before the court involves taxation.

26 Hence, that which is "prima facie evidence" cannot be cited without at least proof on the record of the proceeding that the
27 party who is injured by the presumption consented to the franchise or statute in question IN WRITING, just as the
28 government must consent when you want to sue them. This is a fundamental requirement, in fact, of equal protection: That
29 everyone gets the same defense for their sovereign immunity as the government does. Otherwise, it isn't a legal
30 proceeding, but a worship service directed towards a "superior being" possessing an unconstitutional title of nobility and
31 "supernatural powers". For more information about the abuse of presumption by the government in order to unlawfully
32 enforce franchises against non-consenting parties who therefore cannot lawfully participate, see:

[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction](http://sedm.org/Forms/FormIndex.htm), Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

33 **4 How the Executive Branch Acquires Enforcement Authority**

34 An essential requirement of "due process of law" is "notice and opportunity to be heard" by the parties who will be subject
35 to the enforcement action prior to its commencement. To wit:

36 *"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality*
37 *is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the*
38 *[enforcement] action and afford them an opportunity to present their objections."* *Mullane v. Central Hanover*
39 *Bank & Trust Co.*, 339 U.S. 306, 314 (1950). *Without proper prior notice to those who may be affected by a*
40 *government decision, all other procedural rights may be nullified. The exact contents of the notice required by*
41 *due process will, of course, vary with the circumstances.*
42 [Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]
43

44 *"It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free*
45 *government which no member of the Union may disregard, as that **no man shall be condemned in his person***
46 *or property without due notice and an opportunity of being heard in his own defense."*
47 [Holden v. Hardy, 169 U.S. 366 (1898)]

1 “Notice and opportunity to be heard” is given at each stage of publication of enforcement authority for both statutes and
 2 regulations, as summarized below. The right hand column describes who the only lawful audience for enforcement is if the
 3 statute, regulation, or proposed regulation does not progress beyond the step indicated:

4 **Table 1: Legislative process for Executive Branch to acquire enforcement authority**

#	Description	Authority	Method of notice	Lawful subject of law if notice stops at this point
1	Bill is enacted by Congress	Constitution Article 1, Section 8	Congressional Record	Government officers, agents, and employees ONLY
2	Bill is published in the Statutes At Large. This puts agencies within the government on notice of new laws they will be required to both obey and enforce only against themselves. It does NOT constitute sufficient notice to private persons, however.	1 U.S.C. §106a 1 U.S.C. §112	Statutes At Large	Government officers, agents, and employees ONLY
3	Law Revision Counsel of the House of Representatives amends the U.S. Code to reflect the new legislation using the content of the Statutes At Large. Publishes in U.S. Code.	1 U.S.C. §202	U.S. Code	Government officers, agents, and employees ONLY
3	Federal agencies read the codified congressional enactment in the U.S. Code and write proposed regulations which will implement it if necessary. Proposed regulations are published at http://regulations.gov .	5 U.S.C. §553	http://regulations.gov	Government officers, agents, and employees ONLY
4	Public comment occurs on the proposed new regulations. The purpose of this notice and comment is to ensure that: 1. The regulations accurately reflect the legislative intent of the new statute. 2. Ambiguities in the new regulations are eliminated so that the regulation provides clear, unambiguous definition of exactly the conduct expected of those who will become the target of enforcement. 3. Develop an administrative record that courts may use for “judicial review” of agency decisions.	5 U.S.C. §552b	http://regulations.gov	Government officers, agents, and employees ONLY
5	The proposed regulations are amended to reflect the needs of the public and then published as Final regulations in the Federal Register	5 U.S.C. §553	Federal Register	Government officers, agents, and employees ONLY
6	After publication in the Federal Register, the new regulations are added to the Code of Federal Regulations (CFR).	44 U.S.C. Chapter 15 44 U.S.C. §1505 5 U.S.C. §553	Code of Federal Regulations	Private persons in the general public

#	Description	Authority	Method of notice	Lawful subject of law if notice stops at this point
7	Enforcement of the enactment of Congress begins against persons outside the government		NA	

1 If you would like to learn more about the Constitutional requirement for “reasonable notice” of all enforcement statutes
2 having “general applicability and legal affect” beyond the discussion in this section, see:

Requirement for Reasonable Notice, Form #05.022
<http://sedm.org/Forms/FormIndex.htm>

3 **5 Discerning the Lawful Target of Enforcement of a Specific Statute Based on the Way it is** 4 **Published**

5 “Our records indicate that the Internal Revenue Service **has not** incorporated by reference [as required by
6 Implementing Regulation 26 CFR §601.702(a)(1)] a **requirement to make an income tax return.**” [Emphasis
7 added]
8 [SEDM Exhibit #05.005;
9 SOURCE: <http://sedm.org/Exhibits/ExhibitIndex.htm>]

10 This section will expand upon the notice and publication process described in the previous section to pinpoint the exact
11 steps by which enforcement authority is obtained by Executive Branch agencies and will describe who the specific targets
12 of the enforcement may lawfully be based upon the method of publication. In effect, it will further expound upon the right-
13 most column of the table in the previous section.

14 The Federal Register Act, 44 U.S.C. §1505 et seq., and the Administrative Procedures Act, 5 U.S.C. §553 et seq, both
15 describe laws which may be enforced as “laws having general applicability and legal effect”. Laws which have general
16 applicability and legal effect are laws that apply to persons OTHER than those in the government or to the public at large.
17 To wit, read the following, which is repeated in slightly altered form in 5 U.S.C. §553(a):

18 [TITLE 44 > CHAPTER 15 > § 1505](#)
19 [§ 1505. Documents to be published in Federal Register](#)

20 (a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect;
21 Documents Required To Be Published by Congress. There shall be published in the Federal Register—

22 [. . .]

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

25 The requirement for “reasonable notice” or “due notice” as part of Constitutional due process extends not only to statutes
26 and regulations AFTER they are enacted into law, such as when they are enforced in a court of law, but also to the
27 publication of proposed statutes and rules/regulations BEFORE they are enacted and subsequently enforced by agencies
28 within the Executive Branch. The Federal Register is the ONLY approved method by which the public at large domiciled in
29 “States of the Union” are provided with “reasonable notice” and an opportunity to comment publicly on new or proposed
30 statutes OR rules/regulations which will directly affect them and which may be enforced directly against them.

31 [TITLE 44 > CHAPTER 15 > § 1508](#)
32 [§ 1508. Publication in Federal Register as notice of hearing](#)

33 A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress,
34 or which may otherwise properly be given, shall be deemed to have been given to all persons residing within
35 the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient
36 in law, when the notice is published in the Federal Register at such a time that the period between the
37 publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be
38 heard is—

1 Neither statutes nor the rules/regulations which implement them may be directly enforced within states of the Union against
2 the general public unless and until they have been so published in the Federal Register.

3 [TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)
4 [§ 552. Public information: agency rules, opinions, orders, records, and proceedings§ 1508. Publication in](#)
5 [Federal Register as notice of hearing](#)

6 *Except to the extent that a person has actual and timely notice of the terms thereof, **a person may not in any***
7 ***manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal***
8 ***Register and not so published.** For the purpose of this paragraph, matter reasonably available to the class of*
9 *persons affected thereby is deemed published in the Federal Register when incorporated by reference therein*
10 *with the approval of the Director of the Federal Register.*
11

12 [26 CFR §601.702](#) Publication and public inspection

13 *(a)(2)(ii) Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms*
14 *of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the*
15 *Federal Register, such person is not required in any manner to resort to, or be adversely affected by, such*
16 *matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this*
17 *subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so*
18 *published or incorporated by reference will not adversely change or affect a person's rights.*

19 The only exceptions to the requirement for publication in the Federal Register of the statute and the implementing
20 regulations are the groups specifically identified by Congress as expressly exempted from this requirement, as follows:

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

25 All of the above requirements are also mentioned in 5 U.S.C. §301 (federal employees), which establishes that the head of
26 an Executive or military department may prescribe regulations for the internal government of his department.

27 [TITLE 5 > PART I > CHAPTER 3 > § 301](#)
28 [§ 301. Departmental regulations](#)

29 *The head of an Executive department or military department may prescribe regulations for the government of*
30 *his department, the conduct of its employees, the distribution and performance of its business, and the custody,*
31 *use, and preservation of its records, papers, and property. This section does not authorize withholding*
32 *information from the public or limiting the availability of records to the public.*

33 Based on the above, the burden of proof imposed upon the government at any due process meeting in which it is enforcing
34 any provision is to produce at least ONE of the following TWO things:

- 35 1. Evidence signed under penalty of perjury by someone with personal, first-hand knowledge, proving that you are a
36 member of one of the three groups specifically exempted from the requirement for implementing regulations, as
37 identified above.
- 38 2. Evidence of publication in the Federal Register of BOTH the statute AND the implementing regulation which they
39 seek to enforce against you.

40 Without satisfying one of the above two requirements, the government is illegally enforcing federal law and becomes liable
41 for a constitutional tort. For case number two above, the federal courts have said the following enlightening things:

42 *"...for federal tax purposes, federal regulations [rather than the statutes ONLY] govern."*
43 *[Dodd v. United States, 223 F.Supp. 785]*
44

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

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"An administrative regulation, of course, is not a "statute." While in practical effect regulations may be called "little laws," they are at most but offspring of statutes. Congress alone may pass a statute, and the Criminal Appeals Act calls for direct appeals if the District Court's dismissal is based upon the invalidity or construction of a statute. See United States v. Jones, 345 U.S. 377 (1953). This Court has always construed the Criminal Appeals Act narrowly, limiting it strictly "to the instances specified." United States v. Borden Co., 308 U.S. 188, 192 (1939). See also United States v. Swift & Co., 318 U.S. 442 (1943). 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]

"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]

"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]

Another very interesting observation is that the federal courts have essentially ruled that I.R.C. Subtitle A pertains exclusively to government employees, agents, and officers, when they said:

"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 , affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659, 507 U.S. 1010, 123 L.Ed.2d. 278]

Since there are no implementing regulations for most federal tax enforcement, the statutes which establish the requirement are only directly enforceable against those who are members of the groups specifically exempted from the requirement for implementing regulations published in the Federal Register as described above. This is also consistent with the statutes authorizing enforcement within the I.R.C. itself found in 26 U.S.C. §6331, which say on the subject the following:

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.

6 Groups Specifically Exempted from Requirement for Federal Register Publication

The next subject we need to focus on is precisely defining exactly who is included within the three groups specifically exempted from the Federal Register publication requirement mentioned in the previous section:

1. Who do they work for?
2. Where may they lawfully serve?
3. What are the qualifications for them holding the position they hold?

These questions are very important, because if we want to prove that we are not members of the these groups and therefore may NOT lawfully become the target for an enforcement of a statute that has no implementing regulations.

Let's repeat the three groups again:

1. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).
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. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#) .

In the following sections, we will extract definitions for each of the terms above in the order presented so you know exactly who they mean.

6.1 “Officers”, “Agents”, and “Employees”

1. “officers”: In the case of the government, this could only mean “public officers”:

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 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmler, 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]

“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]

2. “employees”: Below is the definition of that term, and note that it EXCLUDES what most people would consider “employee” within a private company.

[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.

3. “personnel”:

[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).

4. “agent”:

AGENT. A person authorized by another to act for him, one intrusted with another's business. *Downs v. Delco-Light Co.*, 175 La. 242, 143 So. 227. **One who represents and acts for another under the contract or relation of agency. q. v. Fowler v. Cobb, Mo.App., 232 S.W. 1084.** A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons. *Saums v. Parfet*, 270 Mich. 165,258 N.W. 235. One who undertakes to transact some business, or to manage some affair, for another, by the authority and on account of the latter, and to render an account of it. *I Livermore*, Ag. 67. See *Co.Litt.* 207, 1 B. & P. 316; *Thomas B. Jeffrey Co. v. Lockridge*, 173 Ky. 282, 190 SW. 1103, 1105. One who acts for or in place of another by authority from him; a substitute, a deputy, appointed by principal with power to do the things which principal may do. *Stephenson v. Golden*, 279 Mich. 710, 276 N.W. 849. One who deals not only with things, as does a servant, but with persons, using his own discretion as to means, and frequently establishing contractual relations between his principal and third persons. *Rendleman v. Niagara Sprayer Co.*, D.C.Ill., 16 F.2d. 122, 124. See, also, *State v. Bond*, 94 W.Va. 255, 118 S.E. 276, 279. [*Black's Law Dictionary, Fourth Edition, pp. 85-86*]

In the context of “public officers”, they are permitted to serve by law ONLY within the District of Columbia and not elsewhere. The only exception is a specific act of Congress authorizing the officer to serve in a specific place outside the District of Columbia:

[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.

If you examine all of the statutes within the United States Code looking for “public offices” specifically authorized by law outside the District of Columbia, you will find that none are authorized to be executed within any state of the Union, and certainly not in the context of the “trade or business” franchise that is the heart of the Internal Revenue Code.

From the above, we conclude the following:

1. Only “public officers” are included in the definition of “employee”.
2. Ordinary, common law “employees” are excluded from the meaning of “employee” as legally defined.

Treatise on the Law of Public Offices and Officers
Book 1: Of the Office and the Officer: How Officer Chosen and Qualified
Chapter I: Definitions and Divisions

1 §2 How Office Differs from Employment.-

2 A public office differs in material particulars from a public employment, for, as was said by Chief Justice
3 MARSHALL, "although an office is an employment, it does not follow that every employment is an office. A man
4 may certainly be employed under a contract, express or implied, to perform a service without becoming an
5 officer."

6 "We apprehend that the term 'office,'" said the judges of the supreme court of Maine, "implies a delegation of a
7 portion of the sovereign power to, and the possession of it by, the person filling the office; and the exercise of
8 such power within legal limits constitutes the correct discharge of the duties of such office. The power thus
9 delegated and possessed may be a portion belonging sometimes to one of the three great departments and
10 sometimes to another; still it is a legal power which may be rightfully exercised, and in its effects it will bind the
11 rights of others and be subject to revision and correction only according to the standing laws of the state. An
12 employment merely has none of these distinguishing features. A public agent acts only on behalf of his
13 principal, the public, whose sanction is generally considered as necessary to give the acts performed the
14 authority and power of a public act or law. And if the act be such as not to require subsequent sanction, still it
15 is only a species of service performed under the public authority and for the public good, but not in the
16 exercise of any standing laws which are considered as roles of action and guardians of rights."

17 "The officer is distinguished from the employee," says Judge COOLEY, "in the greater importance, dignity and
18 independence of his position; in being required to take an official oath, and perhaps to give an official bond; in
19 the liability to be called to account as a public offender for misfeasance or non-feasance in office, and usually,
20 though not necessarily, in the tenure of his position. In particular cases, other distinctions will appear which
21 are not general."

22 [A Treatise on the Law of Public Offices and Officers, Floyd Russell Mechem, 1890, pp. 3-4, §2;
23 SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

- 24 3. You must be eligible to participate in and received deferred government employment retirement benefits in order to
25 qualify as "personnel".
- 26 4. Social Security recipients are included within the definition of "personnel".
- 27 5. You cannot become an agent without first signing a contract authorizing you to act on their behalf.
- 28 6. All "officers" may only serve in the District of Columbia and not elsewhere, and especially not within a state of the
29 Union, except as expressly authorized by law.
- 30 7. Anyone who wishes to connect you to the obligations associated with a "public office" has the burden of proving:
- 31 7.1. That there is a specific statute expressly authorizing you to serve in the place you serve.
- 32 7.2. That you lawfully occupy said office.
- 33 7.3. That you took the requisite oath.
- 34 7.4. That you have the required Appointment Affidavit.

35 **6.2 "Property" and "contracts"**

36 1. "contract":

37 *CONTRACT. A promissory agreement between two or more persons that creates, modifies, or destroys a legal*
38 *relation. Buffalo Pressed Steel Co. v. Kirwan, 138 Md. 60, 113 A. 628, 630; Mexican Petroleum Corporation of*
39 *Louisiana v. North German Lloyd, D.C.La., 17 F.2d. 113,114.*

40 An agreement, upon sufficient consideration, to do or not to do a particular thing, 2 B1.Comm. 442; 2 Kent,
41 Comm. 449. Justice v. Lang, 42 N.Y. 496, 1 Am.Rep. 576; Rabon v. State Finance Corporation, 203 S.C. 183,
42 26 S.E.2d. 501, 502.

43 *An agreement between two or more parties, preliminary Step in making of which is offer by one and acceptance*
44 *by other, in which minds of parties meet and concur in understanding of terms. Lee v. Travelers' Ins. Co. of*
45 *Hartford, Conn., 173 S.C. 185, 175 S.E. 429.*

46 A deliberate engagement between competent parties, upon a legal consideration, to do, or abstain from
47 doing, some act. Wharton; Smith v. Thornhill, Tex.Com.App. 25 S.W.2d. 597, 599.

48 It is agreement creating obligation, in which there must be competent parties, subject-matter, legal
49 consideration, mutuality of agreement, and mutuality of obligation, and agreement must not be so vague or
50 uncertain that terms are not ascertainable. H. Liebes & Co. v. Klengenber, C. C.A.Ca1.. 23 F.2d. 611. 612.

51 A contract or agreement is either where a promise is made on one side and assented to on the other; or where
52 two or more persons enter into engagement with each other by a promise on either side. 2 Steph.Comm1. 54.

1 The writing which contains the agreement of parties, with the terms and conditions, and which serves as a proof
2 of the obligation.

3 [Black's Law Dictionary, Fourth Edition, p. 394]

- 4 2. “public property”: This refers to chattel and real property owned by the national government and described in Article
5 4, Section 3, Clause 2 of the United States Constitution:

6 **Property.** That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict
7 legal sense, an aggregate of rights which are guaranteed and protected by the government. *Fulton Light, Heat*
8 *& Power Co. v. State*, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable
9 right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to
10 dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with
11 it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things
12 or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can
13 have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which
14 no way depends on another man's courtesy.

15 The word is also commonly used to denote everything which is the subject of ownership, corporeal or
16 incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable
17 value or which goes to make up wealth or estate. It extends to every species of valuable right and interest, and
18 includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes
19 every invasion of one's property rights by actionable wrong. *Labberton v. General Cas. Co. of America*, 53
20 Wash.2d. 180, 332 P.2d. 250, 252, 254.

21 Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or
22 whether beneficial, or a private ownership. *Davis v. Davis*. *TexCiv-App.*, 495 S.W.2d. 607, 611. Term includes
23 not only ownership and possession but also the right of use and enjoyment for lawful purposes. *Hoffmann v.*
24 *Kinealy, Mo.*, 389 S.W.2d. 745, 752.

25 Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical
26 thing, as right to possess, use and dispose of it. *Cereghino v. State By and Through State Highway Commission*,
27 230 Or. 439. 370 P.2d. 694, 697.

28 Goodwill is property, *Howell v. Bowden*, *TexCiv. App.*, 368 S.W.2d. 842, &18; as is an insurance policy and
29 rights incident thereto, including a right to the proceeds, *Harris v. Harris*, 83 N.M. 441,493 P.2d. 407, 408.

30 Criminal code. "Property" means anything of value. including real estate, tangible and intangible personal
31 property, contract rights, choses-in-action and other interests in or claims to wealth, admission or
32 transportation tickets, captured or domestic animals, food and drink, electric or other power. *Model Penal*
33 *Code. Q 223.0*. See also *Property of another, infra. Dusts. Under definition in Restatement, Second, Trusts, Q*
34 *2(c)*, it denotes interest in things and not the things themselves.
35 [Black's Law Dictionary, Fifth Edition, p. 1095]

36 The term “property” above needs a lot more clarification. Note based on the above definition that all rights are considered
37 “property”. Because all rights are considered “property”, then anything that conveys rights is also property. Contracts are
38 the main method for conveying rights, in fact, and therefore, they too are considered “property”.

39 All franchises are considered contracts between the grantor and the grantee, and they are binding only when the requisite
40 element of a mutual voluntary consent and consideration is present.⁵ Conversely, a franchise granted without consideration
41 is not a contract binding upon the state, franchisee, or pseudo-franchisee.⁶ Therefore, all franchises fit the description of
42 “property” within the meaning of Article 4, Section 3, Clause 2 of the United States Constitution.

⁵ *Larson v. South Dakota*, 278 U.S. 429, 73 L.Ed. 441, 49 S.Ct. 196; *Grand Trunk Western R. Co. v. South Bend*, 227 U.S. 544, 57 L.Ed. 633, 33 S.Ct. 303; *Blair v. Chicago*, 201 U.S. 400, 50 L.Ed. 801, 26 S.Ct. 427; *Arkansas-Missouri Power Co. v. Brown*, 176 Ark 774, 4 S.W.2d. 15, 58 A.L.R. 534; *Chicago General R. Co. v. Chicago*, 176 Ill. 253, 52 N.E. 880; *Louisville v. Louisville Home Tel. Co.*, 149 Ky. 234, 148 S.W. 13; *State ex rel. Kansas City v. East Fifth Street R. Co.* 140 Mo 539, 41 S.W. 955; *Baker v. Montana Petroleum Co.*, 99 Mont 465, 44 P.2d. 735; *Re Board of Fire Comrs.* 27 N.J. 192, 142 A.2d. 85; *Chrysler Light & P. Co. v. Belfield*, 58 ND 33, 224 N.W. 871, 63 A.L.R. 1337; *Franklin County v. Public Utilities Com.* 107 Ohio.St. 442, 140 N.E. 87, 30 A.L.R. 429; *State ex rel. Daniel v. Broad River Power Co.* 157 S.C. 1, 153 S.E. 537; *Rutland Electric Light Co. v. Marble City Electric Light Co.*, 65 Vt. 377, 26 A. 635; *Virginia-Western Power Co. v. Commonwealth*, 125 Va. 469, 99 S.E. 723, 9 A.L.R. 1148, cert den 251 U.S. 557, 64 L.Ed. 413, 40 S.Ct. 179, disapproved on other grounds *Victoria v. Victoria Ice, Light & Power Co.* 134 Va. 134, 114 S.E. 92, 28 A.L.R. 562, and disapproved on other grounds *Richmond v. Virginia Ry. & Power Co.* 141 Va. 69, 126 S.E. 353.

⁶ *Pennsylvania R. Co. v. Bowers*, 124 Pa. 183, 16 A. 836.

1 It is generally considered that the obligation resting upon the grantee to comply with the terms and conditions of the grant
2 constitutes a sufficient consideration.⁷ As expressed by some authorities, the benefit to the community may constitute the
3 sole consideration for the grant of a franchise by a state.⁸

4 A contract thus created has the same status as any other contract recognized by the law;⁹ it is binding mutually upon the
5 grantor and the grantee and is enforceable according to its terms and tenor,¹⁰ and is entitled to be protected from impairment
6 by legislative action under the provision of the state and federal constitutions prohibiting the passage of any law by which
7 the obligation of existing contracts shall be impaired or lessened.¹¹ The well-established rule as to franchises is that where a
8 municipal corporation, acting within its powers, enacts an ordinance conferring rights and privileges on a person or
9 corporation, and the grantee accepts the ordinance and expends money in availing itself of the rights and privileges so
10 conferred, a contract is thereby created which, in the absence of a reserved power to amend or repeal the ordinance, cannot
11 be impaired by a subsequent municipal enactment.¹² Certain limitations upon this general rule, and particular applications
12 thereof, are discussed in the following section.

13 The equivalent of a municipal grant or franchise may result from the acceptance of an offer contained in a state statute¹³ or
14 in the constitution of the state.¹⁴

15 A franchise is acquired, ordinarily, only when the grant is actually accepted.¹⁵ Acceptance may be implied by the acts or
16 conduct of the grantee,¹⁶ and this is especially true when the franchise makes no provision for a formal acceptance
17 thereof.¹⁷ Those who do not wish to participate in the franchise simply withdraw their consent to participate.

⁷ Central Transp. Co. v. Pullman's Palace Car Co., 139 U.S. 24, 35 L.Ed. 55, 11 S.Ct. 478; Summerville v. Georgia Power Co., 205 Ga. 843, 55 S.E.2d. 540; Dufour v. Stacey, 90 Ky. 288, 14 S.W. 48; State ex rel. Kansas City v. East Fifth Street R. Co. 140 Mo 539, 41 S.W. 955; Victory Cab Co. v. Charlotte, 234 NC 572, 68 S.E.2d. 433.

Consideration for the grant of a charter need not be based upon benefit to the grantor; it is sufficient if it imports damage or loss, or forbearance of benefit, or any act done, or to be done, on the part of the grantee. Per Story, J., Dartmouth College v. Woodward, 4 Wheat (US) 518, 4 L.Ed. 629.

⁸ Dartmouth College v. Woodward, supra; Victory Cab Co. v. Charlotte, 234 NC 572, 68 S.E.2d. 433.

⁹ Louisville v. Louisville Home Tel. Co., 149 Ky. 234, 148 S.W. 13.

¹⁰ Grand Trunk Western R. Co. v. South Bend, 227 U.S. 544, 57 L.Ed. 633, 33 S.Ct. 303; Louisville v. Cumberland Tel. & Tel. Co., 224 U.S. 649, 56 L.Ed. 934, 32 S.Ct. 572; Summerville v. Georgia Power Co., 205 Ga. 843, 55 S.E.2d. 540; Victory Cab Co. v. Charlotte, 234 NC 572, 68 S.E.2d. 433; East Ohio Gas Co. v. Akron, 81 Ohio.St. 33, 90 N.E. 40.

¹¹ Ohio Pub. Serv. Co. v. Ohio, 274 US 12, 71 L.Ed. 898, 47 S.Ct. 480; Northern Ohio Traction & Light Co. v. Ohio, 245 U.S. 574, 62 L.Ed. 481, 38 S.Ct. 196; Cincinnati v. Cincinnati & H. Traction Co., 245 U.S. 446, 62 L.Ed. 389, 38 S.Ct. 153; Kansas Gas & E. Co. v. Independence (CA10) 79 F.2d. 32, 638, 100 A.L.R. 1479; State ex rel. Weatherly v. Birmingham Waterworks Co., 185 Ala. 388, 64 So. 23; Colorado & S. R. Co. v. Ft. Collins, 52 Colo. 281, 121 P. 747; Summerville v. Georgia Power Co., 205 Ga. 843, 55 S.E.2d. 540; Chicago Union Traction Co. 199 Ill. 259, 65 N.E. 243; Rushville v. Rushville Natural Gas Co. 164 Ind 162, 73 N.E. 87; State ex rel. Shaver v. Iowa Tel. Co. 175 Iowa 607, 154 N.W. 678; Dayton v. South Covington & C. Street R. Co. 177 Ky. 202, 197 S.W. 670; Shreveport Traction Co. v. Shreveport, 122 La 1, 47 So 40; Benton Harbor v. Michigan Fuel & Light Co. 250 Mich. 614, 231 N.W. 52, 71 A.L.R. 114; Northwestern Tel. Exch. Co. v. Minneapolis, 81 Minn. 140, 83 N.W. 527, 86 N.W. 69; Westport v. Mulholland, 159 Mo 86, 60 S.W. 77; Quinby v. Public Serv. Com. 223 N.Y. 244, 119 N.E. 433, 3 A.L.R. 685; Northwestern Tel. Exch. Co. v. Anderson, 12 ND 585, 98 N.W. 706; Interurban R. & Terminal Co. v. Public Utilities Com., 98 Ohio.St. 287, 120 N.E. 831, 3 A.L.R. 696; Providence Gas Co. v. Thurber, 2 R.I. 15; Cumberland Tel. & Tel. Co. v. United Electric R. Co. 93 Tenn. 492, 29 S.W. 104; Salt Lake City v. Utah Light & Traction Co. 52 Utah 210, 173 P 556, 3 A.L.R. 715; State v. Gibbs, 82 Vt 526, 74 A 229; Virginia-Western Power Co. v. Commonwealth, 125 Va. 469, 99 S.E. 723, 9 A.L.R. 1148, cert den 251 U.S. 557, 64 L.Ed. 413, 40 S.Ct. 179, disapproved on other grounds Victoria v. Victoria Ice, Light & Power Co., 134 Va. 134, 114 S.E. 92, 28 A.L.R. 562, and disapproved on other grounds Richmond v. Virginia Ry. & Power Co. 141 Va. 69, 126 S.E. 353; Allen v. Forrest, 8 Wash 700, 36 P 971; Clarksburg Electric Light Co. v. Clarksburg, 47 W Va. 739, 35 S.E. 994, error dismd (US) 46 L.Ed. 1267, 22 S.Ct. 942; Wright v. Milwaukee Electric R. & Light Co., 95 Wis 29, 69 N.W. 791.

¹² New York Electric Lines Co. v. Empire City Subway Co., 235 US 179, 59 L.Ed. 184, 35 S.Ct. 72; Boise Artesian Hot & Cold Water Co. v. Boise City, 230 U.S. 84, 57 L.Ed. 1400, 33 S.Ct. 997; Owensboro v. Cumberland Tel. & Tel. Co., 230 U.S. 58, 57 L.Ed. 1389, 33 S.Ct. 988; Omaha Water Co. v. Omaha (CA8) 147 F 1, app dismd, 207 U.S. 584, 52 L.Ed. 352, 28 S.Ct. 262; Colorado & S. R. Co. v. Ft. Collins, 52 Colo. 281, 121 P. 747; Washington v. Atlantic Coast Line R. Co. 136 Ga. 638, 71 S.E. 1066; Rushville v. Rushville Natural Gas Co. 164 Ind 162, 73 N.E. 87; Michigan Tel. Co. v. St. Joseph, 121 Mich. 502, 80 N.W. 383; Northwestern Tel. Exch. Co. v. Minneapolis, 81 Minn. 140, 83 N.W. 527, 86 N.W. 69; Westport v. Mulholland, 159 Mo 86, 60 S.W. 77; Backus v. Lebanon, 11 NH 19; Northwestern Tel. Exch. Co. v. Anderson, 12 ND 585, 98 N.W. 706; Elliott v. Eugene, 135 Or 108, 294 P 358; Milwaukee Electric R. & Light Co. v. Railroad Com. 153 Wis 592, 142 N.W. 491, affd 238 US 174, 59 L.Ed. 1254, 35 S.Ct. 820.

¹³ The grant resulting from the acceptance, by the establishment of a plant devoted to the prescribed public use, of the state's offer to permit persons or corporations duly incorporated for the purpose "in any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light," to lay pipes in the city streets for the purpose specified, constitutes a contract and vests in the accepting individual or corporation a property right protected by the Federal Constitution against impairment. Russell v. Sebastian, 233 US 195, 58 L.Ed. 912, 34 S.Ct. 517.

¹⁴ Madera Waterworks v. Madera, 228 U.S. 454, 57 L.Ed. 915, 33 S.Ct. 571.

¹⁵ Stockton Gas & E. Co. v. San Joaquin County, 148 Cal. 313, 83 P. 54.

¹⁶ City R. Co. v. Citizens' Street R. Co., 166 U.S. 557, 41 L.Ed. 1114, 17 S.Ct. 653.

1 The grant of a franchise, when accepted by the grantee, constitutes a binding contract between the parties thereto by which
2 their rights and obligations are to be determined in accordance with its terms and conditions.¹⁸ The character and extent of
3 the rights granted in the use of a franchise depend upon the terms of the grant, the nature of the franchise, and the purpose
4 designed to be accomplished.¹⁹ Moreover, the jurisdiction of the granting authority is a limitation upon the extent of the
5 franchise which is granted.²⁰

6 All franchise agreements created by the government are what the legal profession calls “private law”:

7 *“Private law. That portion of the law which defines, regulates, enforces, and administers relationships among*
8 *individuals, associations, and corporations. As used in contradistinction to public law, the term means all that*
9 *part of the law which is administered between citizen and citizen, or which is concerned with the definition,*
10 *regulation, and enforcement of rights in cases where both the person in whom the right inheres and the person*
11 *upon whom the obligation is incident are private individuals. See also Private bill; Special law. Compare*
12 *Public Law.”*
13 *[Black’s Law Dictionary, Sixth Edition, p. 1196]*

14 Franchise agreements are private law because they only affect those who consent explicitly (in writing) or implicitly (by
15 their conduct) to participate in the franchise. What all government franchise agreements have in common is that they:

- 16 1. Operate as contracts.
- 17 2. Involve mutual consideration of one kind or another to all those who are party to it.
- 18 3. Regulate the “choice of law” rules applying to the relationship between the grantor of the franchise and the franchisees.
19 For instance, most franchise agreements specify the laws under which disputes are regulated and sometimes even the
20 forums or courts that will hear the disputes. Some franchise agreements even cause those who sign up to waive all of
21 their rights to litigate in a government court and to submit the dispute instead to binding private arbitration.
- 22 4. Regulate the use of “public property” by the franchisee.
- 23 5. Operate as a trust or constructive trust. The person in custody of the public property is a trustee over said property
24 under the terms of the franchise agreement, which is the trust document.
- 25 6. Make those who sign up the object of what the courts call “legal disability”. This disability includes a surrender of the
26 right to not be subject to administrative “bills of attainder”, which would otherwise be unconstitutional:

27 *“The Government urges that **the Power Company is estopped to question the validity of the Act creating the***
28 ***Tennessee Valley Authority**, and hence that the stockholders, suing in the right of the corporation, cannot [297*
29 *U.S. 323] maintain this suit. **The principle is invoked that one who accepts the benefit of a statute cannot***
30 ***be heard to question its constitutionality. Great Falls Manufacturing Co. v. Attorney General, 124 U.S. 581;***
31 ***Wall v. Parrot Silver & Copper Co., 244 U.S. 407; St. Louis Casting Co. v. Prendergast Construction Co.,***
32 ***260 U.S. 469.”***
33 *[Ashwander v. Tennessee Valley Auth., 297 U.S. 288 (1936)]*

34 *“...when a State willingly accepts a substantial benefit from the Federal Government, it waives its immunity*
35 *under the Eleventh Amendment and consents to suit by the intended beneficiaries of that federal assistance.”*
36 *[Papasan v. Allain, 478 U.S. 265 (1986)]*
37

38 CALIFORNIA CIVIL CODE
39 DIVISION 3. OBLIGATIONS
40 PART 2. CONTRACTS
41 CHAPTER 3. CONSENT
42 [Section 1589](#)
43

¹⁷ State ex rel. Martin v. Ohio Electric Power Co., 35 Ohio.App. 481, 172 N.E. 615, affd 121 Ohio.St. 235, 167 N.E. 877.

¹⁸ Arkansas-Missouri Power Co. v. Brown, 176 Ark 774, 4 S.W.2d. 15, 58 A.L.R. 534; Interurban R. & Terminal Co. v. Public Utilities Com. 98 Ohio.St. 287, 120 N.E. 831, 3 A.L.R. 696.

The rights of the parties are to be determined by the terms of a franchise contract which is included in the provisions of a valid franchise ordinance accepted by the grantee. Columbus R. Power & L. Co. v. Columbus, 249 U.S. 399, 63 L.Ed. 669, 39 S.Ct. 349, 6 A.L.R. 1648; Cleveland v. Cleveland City R. Co., 194 U.S. 517, 48 L.Ed. 1102, 24 S.Ct. 756; State ex rel. Weatherly v. Birmingham Waterworks Co., 185 Ala. 388, 64 So. 23; People ex rel. Jackson v. Suburban R. Co., 178 Ill. 594, 53 N.E. 349; Interurban R. & Terminal Co. v. Public Utilities Com., 98 Ohio.St. 287, 120 N.E. 831, 3 A.L.R. 696.

¹⁹ Leonard v. Baylen Street Wharf Co., 59 Fla. 547, 52 So. 718.

²⁰ Citizens Tel. Co. v. Cincinnati, N. O. & T. P. R. Co 192 Ky. 399, 233 S.W. 901, 18 A.L.R. 615.

1 1589. A voluntary acceptance of the benefit of a transaction is equivalent to a consent to all the obligations
2 arising from it, so far as the facts are known, or ought to be known, to the person accepting.

- 3 7. Make those who consent into “trustees” of one kind or another on behalf of the entity granting the franchise. These
4 trustees exercise agency on behalf of the trust. If the grantor of the franchise is the government, the franchisees in
5 effect become “trustees” of the “public trust” and therefore an officer of the government granting the franchise.
- 6 8. Convey rights to each of the parties.
- 7 9. Constitute “property”.

8 The authority under the constitution for federal jurisdiction over all property, including federal franchises, originates from
9 Article 4, Section 3, Clause 2 of the United States Constitution, which states in pertinent part:

10 *United States Constitution*
11 *Article 4, Section 3, Clause 2*

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

15 The “other property” they are talking about can include federal franchises. Of such property and the jurisdiction of the
16 United States over said property, the U.S. Supreme Court has ruled the following:

17 *“The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting*
18 *the territory or other property belonging to the United States. This power applies as well to territory*
19 *belonging to the United States within the States, as beyond them. It comprehends all the public domain,*
20 *wherever it may be. The argument is, that the power to make ‘ALL needful rules and regulations’ ‘is a power*
21 *of legislation,’ ‘a full legislative power;’ ‘that it includes all subjects of legislation in the territory,’ and is*
22 *without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress*
23 *may then regulate or prohibit slavery upon the public domain within the new States, and such a prohibition*
24 *would permanently affect the capacity of a slave, whose master might carry him to it. And why not? Because no*
25 *power has been conferred on Congress. This is a conclusion universally admitted. But the power to ‘make*
26 *rules and regulations respecting the territory’ is not restrained by State lines, nor are there any constitutional*
27 *prohibitions upon its exercise in the domain of the United States within the States; and whatever rules and*
28 *regulations respecting territory Congress may constitutionally make are supreme, and are not dependent on*
29 *the situs of ‘the territory.’”*
30 *[Dred Scott v. Sandford, 60 U.S. 393, 509-510 (1856)]*

31 Based on Constitution Article 4, Section 3, Clause 2, whenever we find the phrase:

32 “. . .make all needful Rules and Regulations respecting the Territory and other Property. . .”

33 . . .appears in federal statutes, undoubtedly we are dealing with either federal territory, federal property, or a federal
34 franchise that also is property. Below are a few examples right out of the U.S. Code of statutes dealing with the
35 management of federal property or territory. Note, for instance, that the Secretary of the Treasury is empowered to “make
36 all needful rules and regulations for the enforcement of this title”, which deals exclusively with government franchises and
37 privileges:

- 38 1. 26 U.S.C. §7805(a): Application of Internal Revenue Laws. Franchise: “trade or business”

39 *“Except where such authority is expressly given by this title to any person other than an officer or employee of*
40 *the Treasury Department, the Secretary shall prescribe all needful rules and regulations for the enforcement of*
41 *this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation*
42 *to internal revenue.”*

- 43 2. 16 U.S.C. §363: Hot Springs National Park. Subject: Federal territory or possession.

44 *“Full power is vested in the Secretary of the Interior to provide, in all leases to be executed against any*
45 *combination among lessees or their assigns, as to ownership, prices, or accommodations at any bathhouse; as*
46 *well as to make all needful rules and regulations as to the use of the hot water, and to prevent its waste,*
47 *including full power to authorize the superintendent of said park to make examination and inspection at any*
48 *time of the manner of using the hot water at any bathtub, that it may be used in proper quantity only, and to*
49 *prevent its waste;”*

1 3. 16 U.S.C. §430r: National military parks, rules and regulations. Subject: Federal territory or possession.

2 *The Secretary of the Interior shall have the power to make **all needful rules and regulations** for the care of the*
3 *park, and for the establishment and marking of lines of battle and other historical features of the park.*

4 4. 16 U.S.C. §425h: National military parks, rules and regulations. Subject: Federal territory or possession.

5 *The Secretary of the Interior, subject to the approval of the President, shall have the power to make and shall*
6 *make **all needful rules and regulations** for the care of the park, and for the establishment and marking of lines*
7 *of battle and other historical features of the park.*

8 5. 16 U.S.C. §423g: National military parks, rules and regulations. Subject: Federal territory or possession.

9 *The Secretary of the Interior, subject to the approval of the President, shall have the power to make and shall*
10 ***make all needful rules and regulations** for the care of the battlefield, and for the establishment and marking of*
11 *lines of battle and other historical features of the battlefield.*

12 6. 16 U.S.C. §694b: Rules and regulations for the administration of sanctuaries in national forests; jurisdiction of States.
13 Subject: Federal territory or possession.

14 *The Secretaries of Agriculture and Commerce shall execute the provisions of sections 694 to 694b of this title,*
15 *and they are jointly authorized to make **all needful rules and regulations** for the administration of such fish and*
16 *game sanctuaries or refuges in accordance with the purpose of sections 694 to 694b of this title, including*
17 *regulations not in contravention of State laws for hunting, capturing, or killing predatory animals, such as*
18 *wolves, coyotes, foxes, pumas, and other species destructive to livestock or wildlife or agriculture within the*
19 *limits of said fish and game sanctuaries or refuges: Provided, That the present jurisdiction of the States shall*
20 *not be altered or changed without the legislative approval of such States.*

21 7. 16 U.S.C. §689c: Rules and regulations for administration of the Tahquitz Preserve; predatory animals. Subject:
22 Federal territory or possession.

23 *The Secretary of Agriculture shall execute the provisions of sections 689 to 689d of this title, and he is*
24 *authorized to make **all needful rules and regulations** for the administration of such game preserves in*
25 *accordance with the purposes of said sections, including regulations for hunting, capturing, or killing predatory*
26 *animals, such as wolves, coyotes, cougar, and other species destructive to livestock or wildlife within the limits*
27 *of said game preserve.*

28 8. 16 U.S.C. §701: Protection of migratory game and insectivorous birds, generally. Subject: Federal territory or
29 possession.

30 *And the Secretary of the Interior shall make and publish **all needful rules and regulations** for carrying out the*
31 *purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.*

32 9. 19 U.S.C. §1336(i): Equalization of costs of production. Subject: Privileged foreign commerce under Article, 1,
33 Section 8, Clause 3.

34 (i) Rules and regulations of President

35 *The President is authorized to make **all needful rules and regulations** for carrying out his functions under*
36 *the provisions of this section.*

37 10. 23 U.S.C. §315: Highways, Rules, regulations, and recommendations. Subject: Federal territory or possession. All
38 federal highways are federal possessions.

39 *Except as provided in sections 204(f) and 205(a) of this title, the Secretary is authorized to prescribe and*
40 *promulgate **all needful rules and regulations** for the carrying out of the provisions of this title.*

41 11. 25 U.S.C. §302: Indian Reform School; rules and regulations; consent of parents to placing youth in reform school.
42 Subject: Federal territory or possession. All Indian reservations are a federal territory or possession.

43 *The Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, is authorized and*
44 *directed to select and designate some one of the schools or other institution herein specifically provided for as*
45 *an "Indian Reform School", and to make **all needful rules and regulations** for its conduct, and the placing of*

1 Indian youth therein: Provided, That the appropriation for collection and transportation, and so forth, of
2 pupils, and the specific appropriation for such school so selected shall be available for its support and
3 maintenance: Provided further, That the consent of parents, guardians, or next of kin shall not be required to
4 place Indian youth in said school.

- 5 12. 25 U.S.C. §317: Right of Way through Indian lands: Regulations. Subject: Federal territory or possession. All Indian
6 reservations are a federal territory or possession.

7 *The Secretary of the Interior shall make **all needful rules and regulations**, not inconsistent with sections 312 to
8 318 of this title, for the proper execution and carrying into effect of all the provisions of said sections.*

- 9 13. 30 U.S.C. §75: Coal Land Entries in General, Conflicting claims upon coal lands; rules and regulations. Subject:
10 Federal territory or possession. Bureau of Land Management only handles federal territory or possessions.

11 *Director of the Bureau of Land Management is authorized to issue **all needful rules and regulations** for
12 carrying into effect the provisions of this section and sections 71 to 74 of this title.*

- 13 14. 31 U.S.C. §783: Property Management, Rules and regulations. Subject: Federal territory or possession.

14 *The Comptroller General is authorized to make **all needful rules and regulations** for the Government of the
15 General Accounting Office Building, and to annex to such rules and regulations such reasonable penalties,
16 within the limits prescribed in subsection (b), as will ensure their enforcement. Such rules and regulations shall
17 be posted and kept posted in a conspicuous place on such Federal property.*

18 Of participation in franchises, both the founding fathers and the Bible say we should avoid them at all costs:

19 *"It is our true policy to **steer clear of permanent alliances** [contracts/covenants] with any portion of the foreign world."
20 [George Washington, Farewell Address]*

21 *"Peace, commerce, and honest friendship with all nations – **entangling alliances [contracts, covenants, treaties] with none.**"
22 [Thomas Jefferson, First Inaugural Address, March 4, 1801]*

23 *"You shall make no covenant with them [foreigners], nor with their [pagan government] gods [or judges]. They shall not dwell
24 in your land [and you shall not dwell in theirs by becoming a "resident" in the process of contracting with them], lest they
25 make you sin against Me. For if you serve their gods [under contract or agreement], it will surely be a snare to you."
26 [Exodus 23:32-33, Bible, NKJV]*

27 If you would like to investigate further exactly how franchises work and their nature as "property", please see:

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

28 The most important and relevant affect that franchises have on the status of those who participate in them are summarized
29 below, extracted from the conclusions found in the above document and reviewed again here to make sure you don't miss
30 them:

- 31 1. Franchisees must abide by all the terms of the franchise agreement that pertain to them.
32 2. Franchisees forfeit the constitutional prohibition against "bills of attainder" and become directly subject to
33 administrative penalties without a court trial.
34 3. Franchisees satisfy the definition of "person" found in the franchise agreement.
35 4. Franchisees become "public officers", agents, and sometimes "employees" of the government granting the franchise
36 who are subject to government regulation and control. Acting as a "public officer" is the only method by which the
37 government can regulate the conduct of those engaged in the franchise. It is otherwise unconstitutional and a violation
38 of the Thirteenth Amendment prohibition of involuntary servitude to impose any kind "duty" upon a private person.
39 The only exception to the prohibition against imposing duties upon private parties is in connection with enforcement of
40 the prohibition against hurting the equal rights of your neighbor connected with the criminal or penal laws.
41 5. As "public officers", franchisees are exempt from the requirement for enforcement implementing regulations pursuant
42 to 5 U.S.C. §552(a)(1) and 44 U.S.C. §1505(a) and may have federal statutes enforced directly against them. See:

[Federal Enforcement Authority within States of the Union](http://sedm.org/Forms/FormIndex.htm), Form #05.032
<http://sedm.org/Forms/FormIndex.htm>

- 43 6. Franchisees become "residents" within the jurisdiction of the government granting the franchise.

- 1 6.1. In most cases, this means that the “effective domicile” of the “res” or “RES-IDENT” they represent, who is a
 2 “public officer”, is on federal territory within the exterior limits of the state that they occupy.
 3 6.2. These federal areas, in a sense, constitute an “artificial state” created for the sole purpose of conducting
 4 “business” with the government.
 5 6.3. The reason that all state and federal government and all those conducting business with said government must
 6 have a domicile on federal territory is that these areas are not protected by the Bill of Rights, and therefore they
 7 have no rights, but only statutorily granted “privileges” and franchises. This provides a convenient totalitarian
 8 vehicle for the government to enforce its interests in connection with the franchises or “public rights”.
 9 7. Franchisees become “trustees” over public property, which public property was created by donating their private
 10 property temporarily to a “public use” in order to produce the benefits of the franchise.

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

- 19 8. In most cases, franchisees forfeit their right to hear disputes in a Constitution Article III court or in front of an Article
 20 III judge if the matter deals with a federal franchise. Instead, disputes may be heard in Article I or Article IV courts,
 21 which are part of the Executive Branch of the government. We call such courts “administrative courts”.
 22 9. Franchisees implicitly consent to the choice of law rules dictated by the franchise agreement. Their effective domicile
 23 moves to the place dictated by the franchise agreement. In the case of the Internal Revenue Code, for instance, [26](#)
 24 [U.S.C. §7701\(a\)\(39\)](#) and [§7408\(d\)](#) both dictate that the effective domicile of all “franchisees” is the District of
 25 Columbia. The place where all disputes must be settled is under the I.R.C. franchise agreement is in federal court
 26 under the laws of the District of Columbia, rather than state law.

27 **6.3 “Benefits”**

28 Next, we will look at the meaning of “benefits” within the groups specifically exempted. The term “benefit” is defined in
 29 the following statute.

30 [TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a](#)
 31 [§ 552a. Records maintained on individuals](#)

32 *Definitions.— For purposes of this section—*

33 *(12) the term “Federal benefit program” means any program administered or funded by the Federal*
 34 *Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind*
 35 *assistance in the form of payments, grants, loans, or loan guarantees to individuals; . . .*

36 The two criteria to receive a “benefit” are:

- 37 1. The recipient must be an “Individual”, who is defined in 5 U.S.C. §552a(a)(2) as a “citizen or resident of the United
 38 States” domiciled on federal territory and not within any state of the Union.
 39 2. The recipient must receive cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees.

40 The above definition *excludes* Federal Reserve Notes as “cash, grants, Loans, or loan guarantees”, which are not lawful
 41 money and since they are backed by nothing, do not constitute “consideration”, as we prove below:

42 [The Money Scam, Form #05.041](#)
<http://sedm.org/Forms/FormIndex.htm>

42 Below is yet another definition of “benefit” from Black’s Law Dictionary:

43 *Benefit. Advantage; profit; fruit; privilege; gain; interest. **The receiving** as the exchange for promise some*
 44 *performance or forbearance which promisor was not previously entitled to receive. Graphic Arts Finishers,*

1 *Inc. v. Boston Redevelopment Authority*, 357 Mass. 49, 255 N.E.2d. 793, 795. Benefits are something to
2 advantage of, or profit to, recipient. *Cheltenham Tp. V. Cheltenham Tp. Police Dept.*, 11 Pa.Cmwlt. 348, 312
3 A.2d. 835, 838.

4 Financial assistance received in time of sickness, disability, unemployment, etc. either from insurance or public
5 programs such as social security.

6 Contracts. When it is said that a valuable consideration for a promise may consist of a benefit to the promisor,
7 "benefit" means that the promisor has, in return for his promise, acquired some legal right to which he would
8 not otherwise have been entitled. *Woolum v. Sizemore*, 267 Ky. 384, 102 S.W.2d. 323, 324. "Benefits" of
9 contract are advantages which result to either party from performance by other. *DeCarlo v. Geryco, Inc.* 46
10 N.C. App. 15, 264 S.E.2d. 370, 375.

11 Eminent domain. It is a rule that, in assessing damages for private property taken or injured for public use,
12 "special benefits" may be set off against the amount of damage found, but not "general benefits." Within the
13 meaning of this rule, general benefits are such as accrue to the community at large, to the vicinage, or to all
14 property similarly situated with reference to the work or improvement in question; while special benefits are
15 such as accrue directly and solely to the owner of the land in question and not to others.

16 As respects eminent domain law, "general benefits" are those which arise from the fulfillment of the public
17 object which justified the taking, while "special benefits" are those which arise from the particular relation of
18 the land in question to the public improvement. *Morehead v. State Dept. of Roads*, 195 Neb. 31, 236 N.W.2d.
19 623, 627.

20 [Black's Law Dictionary, Sixth Edition, p. 158]

21 The above meaning of the word "benefit" is vague and depends on which of the two parties to a franchise or prospective
22 franchise is permitted to define it. There are many reasons why legislators might purposefully leave words undefined.
23 Some of these reasons include the fact that they might want:

- 24 1. The definition to be subjective so as to replace a "society of law" with a "society of men".
- 25 2. The jury and the judge, who are usually "benefit" recipients, to be in charge of defining it. This, however, causes a
26 criminal violation of:
 - 27 2.1. 18 U.S.C. §208 on the part of the judge.
 - 28 2.2. 18 U.S.C. §201 in the case of the jurists, who are public officials.
- 29 3. To delegate to federal judges the authority to reach beyond the government's constitutionally delegated power.
30 Typically this is done by giving undue and excessive "policy" discretion to federal judges in order to convert a society
31 of men into a society of law.
- 32 4. To politicize and compel the court to engage in public policy questions rather than legal questions and therefore violate
33 the separation of powers doctrine. See:

[Political Jurisdiction](http://sedm.org/Forms/FormIndex.htm), Form #05.004
<http://sedm.org/Forms/FormIndex.htm>

34 Any attempt to delegate arbitrary power to a judge represents slavery itself, according to the U.S. Supreme Court:

35 "When we consider the nature and the theory of our institutions of government, the principles upon which they
36 are supposed*370 to rest, and review the history of their development, we are constrained to conclude that they
37 do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is,
38 of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers
39 are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom
40 all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that
41 there must always be lodged somewhere, and in some person or body, the authority of final decision; and in
42 many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate
43 tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the
44 fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are
45 secured by those maxims of constitutional law which are the monuments showing the victorious progress of
46 the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the
47 famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a
48 government of laws and not of men.' For the very idea that one man may be compelled to hold his life, or the
49 means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to
50 be intolerable in any country where freedom prevails, as being the essence of slavery itself."
51 [Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064 (U.S. 1886)]

1 If the word “benefit” is not defined within the context of the specific franchise you are accused of violating, then the word
2 is what the legal profession calls “void for vagueness”, thus rendering it a violation of due process of law and a tort to
3 prosecute anyone for a crime involving receipt of “benefits”:

4 *That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are*
5 *subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement,*
6 *consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either*
7 *forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily*
8 *guess at its meaning and differ as to its application violates the first essential of due process of law.*
9 *International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S.Ct. 853; Collins v. Kentucky, 234 U.S. 634,*
10 *638 , 34 S.Ct. 924*

11 ...
12 ... *The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be*
13 *held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably*
14 *admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime,*
15 *and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently*
16 *choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain*
17 *things, and providing a punishment for their violation, should not admit of such a double meaning that the*
18 *citizen may act upon the one conception of its requirements and the courts upon another.’*
19 *[Connally vs. General Construction Co., 269 U.S. 385 (1926)]*

20 How can we prove that a statute is vague in court? That’s easy: Conduct a poll and ask people who don’t receive the
21 benefit on the jury and who therefore do not have a criminal conflict of interest what a “benefit” is and whether they regard
22 the benefit at issue in the case as a “consideration” based on the content of this section. If there is any variation among the
23 persons polled and if their answers are not entirely consistent, then the law is void for vagueness.

24 Absent a clear, unambiguous, objective definition of the word “benefit”, any crime or prosecution based on its definition is
25 required to give the defendant the benefit of the doubt under a practice called the “rule of lenity”:

26 *This expansive construction of § 666(b) is, at the very least, inconsistent with the rule of lenity -- which the*
27 *Court does not discuss. This principle requires that, to the extent that there is any ambiguity in the term*
28 *“benefits,” we should resolve that ambiguity in favor of the defendant. See United States v. Bass, 404 U.S.*
29 *336, 347 (1971) (“In various ways over the years, we have stated that, when choice has to be made between*
30 *two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher*
31 *alternative, to require that Congress should have spoken in language that is clear and definite” (internal*
32 *quotation marks omitted)).*
33 *[Fischer v. United States, 529 U.S. 667 (2000)]*

34 *“When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity*
35 *should be resolved in favor of lenity. And this not out of any sentimental consideration, or for want of*
36 *sympathy with the purpose of Congress in proscribing evil or antisocial conduct. It may fairly be said to be a*
37 *presupposition of our law to resolve doubts . . . against the imposition of a harsher punishment.”*
38 *[Bell v. United States, 349 U.S. 81, 83 (1955)]*

39 If the defendant in a criminal trial involving “benefits” is a Christian, it is also important to point out that the Bible forbids
40 us to regard anything that is offered by the government as a “benefit”. Anyone who compels you to regard what the
41 government offers as a benefit is therefore compelling you to violate your religious beliefs and violate the First
42 Amendment:

43 *“Behold, the nations [and governments and politicians of the nations] are as a drop in the bucket, and are*
44 *counted as the small dust on the scales.”*
45 *[Isaiah 40:15, Bible, NKJV]*

46 *“All the inhabitants of the earth are reputed as nothing; He does according to His will in the army of heaven*
47 *And among the inhabitants of the earth. No one can restrain His hand Or say to Him, ‘What have You done?’”*
48 *[Daniel 4:35, Bible, NKJV]*

49 *“All nations [and governments] before Him [God] are as nothing, and they are counted by Him less than*
50 *nothing and worthless.”*
51 *[Isaiah 40:17, Bible, NKJV]*

52 *“He [God] brings the princes [and Kings and Presidents] to nothing; He makes the judges of the earth*
53 *useless.”*

1 [\[Isaiah 40:23, Bible, NKJV\]](#)

2 *“Indeed **they [the governments and the men who make them up in relation to God] are all worthless; their***
3 ***works are nothing; their molded images [and their bureaus and agencies and usurious "codes" that are not***
4 ***law] are wind [and vanity] and confusion.”***

5 [\[Isaiah 41:29, Bible, NKJV\]](#)

6 The Heritage Foundation has done a statistical analysis on the Social Security Program by viewing it as an investment and
7 calculating its “return”. The return is less than parity so from a financial perspective, it's not a “benefit” either. See:

<http://www.heritage.org/research/features/socialsecurity/SSCalcWelcome.asp>

8 Even the U.S. Supreme Court confirmed that what the government offers is NOT a “benefit”, because it doesn't create
9 ANY obligation upon the government to do anything and therefore does not constitute “consideration” that would make a
10 franchise agreement enforceable:

11 *“... railroad benefits, like social security benefits, are not contractual and may be altered or even eliminated at*
12 *any time.”*

13 *[United States Railroad Retirement Board v. Fritz, 449 U.S. 166 (1980)]*

14 *“We must conclude that **a person covered by the Act has not such a right in benefit payments...** This is not to*
15 *say, however, that Congress may exercise its power to modify the statutory scheme free of all constitutional*
16 *restraint.”*

17 *[Flemming v. Nestor, 363 U.S. 603 (1960)]*

18 Understanding the meaning of the word “benefit”, however, is *hugely* important because:

- 19 1. The definition of the term becomes the metric for whether sufficient “consideration” was rendered by both parties to
20 the contract or franchise so as to make the contract or agreement binding on both of them.
- 21 2. Receipt of “benefit” is the basis for criminally prosecuting those participating in federal franchises who don't “pay
22 their fair share”.
- 23 3. The person granted authority to define the word in any legal contest will always win, which will end up being the judge
24 if you don't define it on the government form that administers the franchise you are either involved in or accused of
25 being involved in.

26 Since the word can and often is very deliberately and purposefully not legislatively defined, it is therefore our job whenever
27 we submit a government form to identify that we are the only ones who can define it and then to define it unambiguously so
28 that silver tongued judges, government prosecutors, and other vermin cannot later invent a unilateral definition that we
29 disagree with and which ultimately will advantage and benefit them at your expense. This approach, in fact, was taken into
30 account in the following form on our website which we religiously attach to all government tax forms we are compelled to
31 submit:

[Tax Form Attachment, Form #04.201](#)
<http://sedm.org/Forms/FormIndex.htm>

32 The definition of the word “benefit” that provides the most protection for your rights is the following:

33 *“**Benefit:** Advantage; profit; fruit; gain; interest associated with a specific transaction which conveys a right*
34 *or property interest which:*

- 35 1. *Is **not** dispensed by an administrative agency of any state or federal government, but by a private*
36 *individual.*
- 37 2. *Does not require the recipient to be an officer, agent, employee, or “personnel” within any government.*
- 38 3. *Is not called a “tax” or collected by the Internal Revenue Service, but is clearly identified as “private*
39 *business activity beyond the core purposes of government”.*
- 40 4. *Does not confer upon the grantor any form of sovereign, official, or judicial immunity.*
- 41 5. *Is legally enforceable in OTHER than a franchise court or administrative agency. That is, may be heard*
42 *in equity within a true, Article III constitutional court and NOT a legislative franchise court.*
- 43 6. *True constitutional courts are provided in which to litigate disputes arising under the benefit and those*
44 *with said disputes are not required to exhaust administrative remedies with an executive branch agency*
45 *BEFORE they may litigate. These constitutional courts are required to produce evidence that they are*

1 constitutional courts with OTHER than strictly legislative franchise powers when challenged by the
2 recipients of said benefits.

- 3 7. The specific value of the consideration can be quantified at any time.
- 4 8. Monies paid in by the recipient to subsidize the program are entirely refundable if the benefits they pay
5 for have not been received or employed either partially or in full.
- 6 9. A person who dies and never collects a benefit is refunded ALL of the monies they paid in.
- 7 10. Participation in the program is not also attached to any other government program. For instance, being a
8 recipient of "social insurance" does not also make the recipient liable for unrelated or other federal
9 taxes.
- 10 11. The term "benefit" must be defined in the franchise agreement that dispenses it, and its definition may not
11 be left to the subjective whims of any judge or jury.
- 12 12. If the "benefit" is financial, then it is paid in lawful money rather than Federal Reserve Notes, which are
13 non interest bearing promissory notes that are not lawful money and are backed by nothing.
- 14 13. The franchise must expressly state that participation is voluntary and that no one can be prosecuted or
15 punished for failure to participate.
- 16 14. The identifying numbers, if any, that administer the program may not be used for identification and may
17 not be shared with or used by any nongovernmental entity other than the recipient him or her self.
- 18 15. May not be heard by any judge, jurist, or prosecutor who is a recipient or beneficiary of the same benefit,
19 because this would cause a conflict of interest in violation of 18 U.S.C. §208, 28 U.S.C. §144, and 28
20 U.S.C. §455.
- 21 16. During any litigation that involving the "benefit", both the grantor and the grantee share equal obligation
22 to prove that equally valuable consideration was provided to the other party. Note that Federal Reserve
23 Notes do not constitute lawful money or therefore consideration.

24 Anything offered by the government that does not meet ALL of the above criteria is herein defined as an
25 INJURY and a TORT. Compelled participation is stipulated by both parties as being slavery in criminal
26 violation of 18 U.S.C. §1583, 42 U.S.C. §1994, and the Thirteenth Amendment.

27 Receipt of the attached government application constitutes consent by the recipient of the application to use the
28 above definition of "benefit" in any disputes that might arise over this transaction. Government recipient and
29 its agents, employees, and assigns forfeit their right as private individuals acting in any government office to
30 define the term "benefit" and agree to use ONLY the above definition.
31

32 The above definition is intended to prevent the creation of a state sponsored religion or fantasy in which people may be
33 fooled into believing that they receive anything of value from the government:

34 "**BELIEF. A conviction of the truth of a proposition, existing subjectively in the mind, and induced by**
35 **argument, persuasion [GOVERNMENT LIES, PROPAGANDA], or proof addressed to the judgment.** Keller
36 v. State, 102 Ga. 506, 31 S.E. 92. Latrobe v. J. H. Cross Co., D.C.Pa., 29 F.2d. 210, 212. A conclusion arrived
37 at from external sources after weighing probability. Ex parte State ex rel. Attorney General, 100 So. 312, 313,
38 211 Ala. 1.

39 **Conviction of the mind, arising not from actual perception or knowledge,** but by way of inference, or from
40 evidence received or information derived from others.

41 A conviction of the truth of a given proposition or an alleged fact resting upon grounds insufficient to constitute
42 positive knowledge. Boone v. Merchants' & Farmers' Bank, D.C.N.C., 285 F. 183. 191.

43 With regard to things which make not a very deep impression on the memory, it may be called "belief."
44 "Knowledge" is nothing more than a man's firm belief. The difference is ordinarily merely in the degree; to be
45 judged of by the court, when addressed to the court; by the jury, when addressed to the jury. Hatch v.
46 Carpenter. 9 Gray (Mass.) 274.

47 Knowledge is an assurance of a fact or proposition founded on perception by the senses, or intuition; while
48 "belief" is an assurance gained by evidence, and from other persons. Brooks v. Sessoms, 47 Ga.App. 554, 171
49 S.E. 222, 224. "Suspicion" is weaker than "belief," since suspicion requires no real foundation for its existence.
50 while "belief" is necessarily based on at least assumed facts. Pen. Code. Ci 836, subd. 3. Cook v. Singer Sewing
51 Mach. Co., 32 P.2d. 430, 431. 138 Cal.App. 418."
52 [Black's Law Dictionary, Fourth Edition, 197]

53 If you submit a government form with the above application and the application is rejected, this is a great way to prove to
54 anyone who was trying to force you to participate that you weren't eligible! Hurt me! It is a maxim of law that any act
55 which is compelled is not YOUR act, and that the law cannot require an impossibility, which means that no one can require
56 you to obtain or punish you for failure to obtain that which the government won't issue you or which you can prove you
57 aren't even legally qualified to obtain. For an example of this phenomenon, see:

- 58 1. Why You Aren't Eligible for Social Security, Form #06.001

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

2 2. [Why It Is Illegal for Me to Request or Use a Taxpayer Identification Number, Form #04.205](http://sedm.org/Forms/FormIndex.htm)

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

4 Another very important aspect of “benefits” needs to be clarified in relation to the “government”. It is illegal for the
5 government to pay any kind of “benefits” or consideration to anyone *other* than persons who are its own officers,
6 employees, and personnel AT THE TIME that the application or payment was made. It is well established that
7 governments who abuse their taxation powers to redistribute wealth and become a Robinhood are nothing short of
8 THIEVES:

9 *To lay, with one hand, the power of the government on the property of the citizen, and with the other to*
10 *bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a*
11 *robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree*
12 *under legislative forms.*

13 *Nor is it taxation. ‘A tax,’ says Webster’s Dictionary, ‘is a rate or sum of money assessed on the person or*
14 *property of a citizen by government for the use of the nation or State.’ ‘Taxes are burdens or charges*
15 *imposed by the Legislature upon persons or property to raise money for public purposes.’ Cooley, Const.*
16 *Lim., 479.*

17 *Coulter, J., in Northern Liberties v. St. John’s Church, 13 Pa. St., 104 says, very forcibly, ‘I think the common*
18 *mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the*
19 *government for the purposes of carrying on the government in all its machinery and operations—that they*
20 *are imposed for a public purpose.’ See, also Pray v. Northern Liberties, 31 Pa.St., 69; Matter of Mayor of*
21 *N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47;*
22 *Whiting v. Fond du Lac, supra.’*
23 [\[Loan Association v. Topeka, 20 Wall. 655 \(1874\)\]](#)
24

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

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

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

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

- 40 1. Theft and robbery by the government in the guise of “taxation”
- 41 2. Government by decree rather than by law
- 42 3. Tyranny
- 43 4. Socialism
- 44 5. Mob rule and a tyranny by the “have-nots” against the “haves”
- 45 6. [18 U.S.C. §241](#): Conspiracy against rights. The IRS shares tax return information with states of the union, so that both
46 of them can conspire to deprive you of your property.
- 47 7. [18 U.S.C. §242](#): Deprivation of rights under the color of law. The Fifth Amendment says that people in states of the
48 Union cannot be deprived of their property without due process of law or a court hearing. Yet, the IRS tries to make it
49 appear like they have the authority to just STEAL these people’s property for a fabricated tax debt that they aren’t even
50 legally liable for.
- 51 8. [18 U.S.C. §247](#): Damage to religious property; obstruction of persons in the free exercise of religious beliefs
- 52 9. [18 U.S.C. §872](#): Extortion by officers or employees of the United States.

- 1 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”.
- 2
- 3 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.
- 4
- 5 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.
- 6
- 7 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.
- 8
- 9 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.
- 10
- 11
- 12

13 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:

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

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

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

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

36 **Table 2: 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 <i>Loan Assoc. v. Topeka</i> , 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”)

#	Characteristic	Public use/purpose	Private use/purpose
7	<i>Tax system based on this approach is</i>	A lawful means of running a government	A charity and welfare state for private interests, thieves, and criminals
8	<i>Government which identifies payment of such monies as mandatory and enforceable is</i>	A righteous government	A lying, thieving government that is deceiving the people.
9	<i>When enforced, this type of tax leads to</i>	Limited government that sticks to its corporate charter, the Constitution	Socialism Communism Mafia protection racket Organized extortion
10	<i>Lawful subjects of Constitutional, federal taxation</i>	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	<i>Tax system based on this approach based on</i>	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.

1 In conclusion, if you were not a “public officer” and “employee” within the government in all the below circumstances,
2 then you are helping the government become a socialist THIEF and a ROBINHOOD that plunders your neighbor to pad
3 your own pockets:

- 4 1. At the time you made application to participate in a “benefit”.
- 5 2. At the time you began drawing the “benefit”.
- 6 3. At the time you made contributions to subsidize the “benefit”.

7 For further important details on the meaning of the word “benefits” and the self-serving games that your public servants
8 play with this word, see:

The Government “Benefits” Scam, Form #05.040
<http://sedm.org/Forms/FormIndex.htm>

9 **7 Techniques for determining whether a particular statute has implementing regulations**
10 **published in the Federal Register**

11 The quickest and most convenient method for determining whether a statute has implementing regulations and where the
12 implementing regulations are found is to use the following:

CFR Parallel Table of Authorities
http://www.access.gpo.gov/nara/cfr/parallel/parallel_table.html

13 The above is what is called a “finding aid” which is NOT legally admissible as evidence in court of the NON-existence of
14 implementing regulations. Instead, it is simply a starting point in the search for implementing regulations. This is further
15 described in Section 6.23 of the following document:

Flawed Tax Arguments to Avoid, Form #08.004
<http://sedm.org/Forms/FormIndex.htm>

16 The CFR Parallel Table of Authorities, for instance, does not include many of the regulations found in 26 CFR. For
17 instance, the requirement to file an income tax return at 26 CFR §6012-1 does not appear in the CFR Parallel Table of
18 Authorities. We have not found a satisfactory explanation of why this is from any credible source, but we surmise that this

1 is a product of the fact that 1 U.S.C. §204 says the entire Internal Revenue Code is not “positive law” and stands as simply
2 one big presumption that is inadmissible as evidence of an obligation. This is further explained in sections 11 through 11.6
3 of the memorandum below:

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

4 Within each implementing regulation found in the Code of Federal Regulations (CFR), the bottom of the regulation
5 describes WHERE publication occurred within the Federal Register. Such a citation might look like the following:

6 50 F.R. 12843

7 The above reference refers to volume 50 of the Federal Register, page 12843. A regulation that has no reference to the
8 Federal Register was never published in the Federal Register.

9 The Federal Register is available online at the following address on the web:

Online Federal Register
<http://www.gpoaccess.gov/fr/index.html>

10 The government online version of the Federal Register above only goes back approximately two years. If you need
11 anything further, you will have to visit one of the following:

12 1. A well-equipped Federal Depository Library available at the link below. This service is free but can be inconvenient if
13 you do not live next to a major university with a law library.

Federal Depository Library Index
<http://www.gpoaccess.gov/libraries.html>

14 2. Westlaw: Regulations back to the start. This is a subscription service that will cost you money.
15 <http://westlaw.com>

16 3. Hein Online: Regulations back to the start. This is a subscription service that will cost you money.
17 <http://www.heinonline.org/>

18 **8 Corroborating Evidence Supporting the Conclusions in this Memorandum**

19 The following subsections will provide evidence to support the research and conclusions contained in this memorandum of
20 law. Additional information is also available in the following form:

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

21 **8.1 The Paperwork Reduction Act**

22 The Paperwork Reduction Act, 44 U.S.C. Chapter 35, Subchapter I is useful in establishing who the proper audience for a
23 government form is and whether the audience for the form is the subject of enforcement activity. Any form which is
24 mandatory is intended for “persons” who are subject to federal law and the proper audience for enforcement. Below is a
25 summary of the requirements of the Paperwork Reduction Act:

26 1. 44 U.S.C. §3507(d) of PRA requires notice to and comment by the public in relation to all forms that collect
27 information.

28 2. 44 U.S.C. §3506(c)(1)(B)(iii)(IV) of PRA requires the agency to inform the public if the information responses are:

29 2.1. Voluntary

30 2.2. Required to obtain a benefit

31 2.3. Mandatory.

32 The content of this section says:

33 *TITLE 44 > CHAPTER 35 > SUBCHAPTER I > § 3506*

1 [§ 3506. Federal agency responsibilities](#)

2 (e) With respect to the collection of information and the control of paperwork, each agency shall—

3 (1) establish a process within the office headed by the Chief Information Officer designated under
4 subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed
5 collections of information should be approved under this subchapter, to—

6 (B) **ensure that each information collection—**

7 (i) is inventoried, displays a control number and, if appropriate, an expiration date;

8 (ii) indicates the collection is in accordance with the clearance requirements of section [3507](#); and

9 (iii) informs the person receiving the collection of information of—

10 (I) the reasons the information is being collected;

11 (II) the way such information is to be used;

12 (III) an estimate, to the extent practicable, of the burden of the collection;

13 (IV) **whether responses to the collection of information are voluntary, required to obtain a benefit,**
14 **or mandatory; and**

15 (V) **the fact that an agency may not conduct or sponsor, and a person is not required to respond to, a**
16 **collection of information unless it displays a valid control number; and**

17 (C) assess the information collection burden of proposed legislation affecting the agency;

18 If the submission of the form is “mandatory”, then the submitter of the form is subject to federal law and may lawfully
19 be the subject of federal enforcement activity.

20 3. 44 U.S.C. §3512 establishes that any form which does not display a valid OMB control number may not result in a
21 penalty against the recipient:

22 [TITLE 44 > CHAPTER 35 > SUBCHAPTER I > § 3512](#)
23 [§ 3512. Public protection](#)

24 (a) Notwithstanding any other provision of law, **no person shall be subject to any penalty for failing to comply**
25 **with a collection of information that is subject to this subchapter if—**

26 **(1) the collection of information does not display a valid control number assigned by the Director in**
27 **accordance with this subchapter; or**

28 **(2) the agency fails to inform the person who is to respond to the collection of information that such**
29 **person is not required to respond to the collection of information unless it displays a valid control**
30 **number.**

31 (b) The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at
32 any time during the agency administrative process or judicial action applicable thereto.

33 The easiest way to find out whether you are the proper target of a government enforcement action is to look at the forms
34 and instructions for the forms that the agency sends you. Any of the following forms of evidence are useful in proving that
35 the activity being undertaken by the government may not be enforced against you:

- 36 1. The form does not have a valid OMB Control number displayed. In such a case, it is ONLY for internal use within the
37 government. 44 U.S.C. §3512(a)(1).
- 38 2. The agency fails to notify the recipient on the form that the form is not valid without an OMB Control number. 44
39 U.S.C. §3512(a)(2).
- 40 3. The application and issuance of the OMB Control Number did not follow the requirements of the Paperwork Reduction
41 Act. For instance:
- 42 3.1. Each individual form must have a unique OMB control number. Many IRS forms, for instance, reuse the SAME
43 OMB control number, which is not allowed.
- 44 3.2. The OMB control number must be reapplied for every three years. 44 U.S.C. §3507(f)(2). IRS typically does not
45 do this, because they change their forms every year, for instance.
- 46 4. The form was not published in the Federal Register or there was no notice and comment period when the form was
47 published. See 44 U.S.C. §3507(d).
- 48 5. The form and/or the instructions do not comply with 44 U.S.C. §3506(c)(1)(B)(iii)(IV) by indicating whether the
49 collection of information is:
- 50 5.1. Voluntary
- 51 5.2. Required to obtain a benefit

1 5.3. Mandatory.

2 The above criteria form the basis for an entire website that protests all IRS penalties, because many if not most IRS forms
3 do not comply with all the requirements of the Paperwork Reduction Act:

Penalty Protester Website
<http://penaltyprotester.com>

4 For further information about the content of this section, see:

- 5 1. Paperwork Reduction Act, 44 U.S.C. Chapter 35
6 <http://www4.law.cornell.edu/uscode/44/ch35.html>
- 7 2. Tax Deposition Questions, Section 10: PRA-APA Regulations
8 <http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2010.htm>
- 9 3. Office of Management and Budget Control Numbers-Family Guardian Website, Sovereignty Forms and Instructions,
10 Cites by Topic
11 <http://famguardian.org/TaxFreedom/CitesByTopic/OMBControlNums.htm>
- 12 4. Office of Management and Budget Website
13 <http://www.whitehouse.gov/omb/>
- 14 5. 26 CFR §602.101: OMB Control Numbers-correlates specific regulations within 26 CFR to specific OMB control
15 numbers
16 http://edocket.access.gpo.gov/cfr_2006/aprqrtr/26cfr602.101.htm

17 **8.2 Dept of Justice cannot prosecute tax crimes by other than government officers and**
18 **employees²¹**

19 The responsibility of the Department of Justice is to prosecute individuals for violation of the tax code (not “law”, but
20 “code”). Their authority is derived from 28 CFR §0.70, which you can read for yourself at:

21 <http://squid.law.cornell.edu/cgi-bin/get-cfr.cgi?TITLE=28&PART=0&SECTION=70&TYPE=TEXT>

22 The U.S. Attorney’s Manual, Section 6-1.000 also describes their lawful role in tax prosecutions, which is also available at
23 our website at:

24 <http://famguardian.org/Publications/USAttyManual/title6/title6.htm>

25 The Department of Justice prosecutes tax crimes using a document called the Department of Justice, Tax Division,
26 Criminal Tax Manual. The 1994 version of this document is posted on our website in its entirety for you to read and
27 examine at <http://famguardian.org/>. The IRS relies on the Department of Justice to:

- 28 1. Decide whether a particular tax case should be litigated.
- 29 2. Institute the litigation.
- 30 3. Criminally prosecute against tax crimes which they have delegated authority to prosecute.

31 If you examine the U.S. Attorney’s Manual, the Department of Justice has NO delegated authority to prosecute tax crimes
32 involving U.S. citizens. Here is the section from their manual dealing with their authority to prosecute tax crimes involving
33 the IRS:

34 *U.S. Attorney’s Manual*
35 *6-4.270 Criminal Division Responsibility*

36 **The Criminal Division has limited responsibility for the prosecution of offenses investigated by the IRS.**
37 **Those offenses are: excise violations involving liquor tax, narcotics, stamp tax, firearms, wagering, and coin-**

²¹ Adapted from Great IRS Hoax, Section 5.4.22, with permission.

operated gambling and amusement machines; malfeasance offenses committed by IRS personnel; forcible rescue of seized property; corrupt or forcible interference with an officer or employee acting under the internal revenue laws (but not omnibus clause); and unauthorized mutilation, removal or misuse of stamps. See 28 C.F.R. Sec. 0.70.

[Section 7801 of the Internal Revenue Code](#) concurs with the above description:

*Internal Revenue Code
Sec. 7801. Authority of Department of the Treasury*

(a) Powers and duties of Secretary

Except as otherwise expressly provided by law, the administration and enforcement of this title shall be performed by or under the supervision of the Secretary of the Treasury.

(b) Repealed. Pub. L. 97-258, Sec. 5(b), Sept. 13, 1982, 96 Stat. 1068, 1078)

(c) Functions of Department of Justice unaffected

Nothing in this section or section 301(f) of title 31 shall be considered to affect the duties, powers, or functions imposed upon, or vested in, the Department of Justice, or any officer thereof, by law existing on May 10, 1934.

QUESTION FOR DOUBTERS: Do you see anything in the above authority of the DOJ relating to prosecuting tax crimes involving any of the following? We don't!:

1. Tax evasion of income taxes ([26 U.S.C. §7201](#))
2. Frivolous returns ([26 U.S.C. §6702](#))
3. Willful failure to file ([26 U.S.C. §7203](#))

You can confirm the conclusions of this section for yourself on the Internet. Section 9-4.139 of the Department of Justice, U.S. Attorney's Manual (USAM) found on the DOJ website at:

http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/4mcrm.htm#9-4.139

has a listing of all of the statutes within the Internal Revenue code and the specific agency that has "investigative jurisdiction" for that statute. The agency with "investigative jurisdiction" is the agency responsible for enforcing a specific statute. All of the criminal provisions of the Internal Revenue Code are found in sections 7201 through 7209 of the Internal Revenue Code. In order to have investigative jurisdiction, an agency must write an implementing regulation that then creates the authority and the procedure to enforce a specific criminal provision upon a specific tax under the Internal Revenue Code. For instance, if there were an implementing regulation written by the IRS for Willful Failure to File for Subtitle A income taxes, the regulation number would be 26 CFR §1.7203, but there is no such regulation! There are no implementing regulations for any tax crimes for Subtitle A income taxes. The consequence is that there is no agency with "investigative jurisdiction" to enforce the criminal provisions of the Internal Revenue Code. The org chart for the IRS also confirms that the IRS is NOT an enforcement agency because it does not fall under the Undersecretary for Enforcement within the Department of the Treasury, as shown below:

<http://famguardian.org/TaxFreedom/Evidence/OrgAndDuties/TreasuryOrg.pdf>

Below was the entry under 26 U.S.C. §7201-7209 found within section 9-4.139 of the USAM as of February 2002, showing who has investigative authority for tax crimes under the Internal Revenue Code, repeated here for your benefit:

Table 8-1: Agencies with investigative jurisdiction as of February 2002

<i>Statute</i>	<i>Criminal Division Section</i>	<i>Telephone #</i>	<i>Agency with Investigative Jurisdiction</i>
7201-7209	All		None

1 This is a tacit admission by our government that no agency may enforce the criminal provisions of the Internal Revenue
2 Code, which is another way of saying that no one is liable to pay this tax because it is in fact a donation as we have said
3 repeatedly throughout this chapter! If the IRS or the DOJ do investigate crimes related to the Internal Revenue Code
4 without the above authority or an implementing regulation, then they are acting unlawfully and have exceeded the authority
5 delegated to them by the U.S. codes and the regulations that implement them which are written by the Secretary of the
6 Treasury. They can be prosecuted for libel and any number of crimes if their illegal action causes you any kind of injury or
7 expense.

8 Subsequent to the writing and publication of this section, the Department of Justice rewrote the above entry in their table.
9 Sometime between February 2002 and July 2005, the entry was changed to read:

10 **Table 8-2: Agencies with investigative jurisdiction as of July 2005**

<i>Statute</i>	<i>Criminal Division Section</i>	<i>Telephone #</i>	<i>Agency with Investigative Jurisdiction</i>
7201-7209	All		I.R.S.

11 The above entry is fraudulent, because:

- 12 1. The same Department of Justice admitted that the IRS is NOT an agency of the federal government. See:

13 <http://famguardian.org/Subjects/Taxes/Evidence/USGovDeniesIRS/USGovDeniesIRS.htm>

14 The reason the IRS is not an agency of the federal government is that it isn't carrying out a constitutional function
15 within the states and therefore is an independent creation of Congress that only has jurisdiction over matters
16 INTERNAL to the federal zone, as is shown throughout the Tax Fraud Prevention Manual, chapter 7. That is why
17 they are called the INTERNAL Revenue Service to begin with. Even the IRS identifies itself NOT as an "agency", but
18 a "bureau". See their Document 7233 at the link below. Search for the word "bureau" and you will see what we mean:

19 http://famguardian.org/PublishedAuthors/Govt/IRS/irs_75_years.pdf

- 20 2. There are not implementing regulations published in the Federal Register authorizing enforcement of I.R.C. Subtitle A
21 against private persons in states of the Union. The only people the IRS can enforce against are federal instrumentalities
22 in the District of Columbia, according to [44 U.S.C. §1505\(a\)\(1\)](#) and [5 U.S.C. §553\(a\)](#), who are the only groups that can
23 be the target of penalties absent said publication.

24 Therefore, the DOJ is LYING in the new version U.S. Attorney's Manual above, and they know it, because a U.S. Attorney
25 basically admitted as much in the link above.

26 **8.3 Federal Bureau of Investigation limited to investigating federal officers and employees**

27 The Federal Bureau of Investigation is within the Dept. of Justice. Per [28 U.S.C. §535](#), Congress limited the FBI to the
28 investigation of crimes ONLY by federal officers and employees.

29 *TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE*
30 *PART II - DEPARTMENT OF JUSTICE*
31 *CHAPTER 33 - FEDERAL BUREAU OF INVESTIGATION*
32 *Sec. 535. Investigation of crimes involving Government officers and employees; limitations*

34 *(a) The Attorney General and the Federal Bureau of Investigation*
35 *may investigate any violation of Federal criminal law involving*
36 *Government officers and employees -*
37 *(1) notwithstanding any other provision of law; and*
38 *(2) without limiting the authority to investigate any matter*
39 *which is conferred on them or on a department or agency of the*
40 *Government.*

41 Note that there is no statute authorizing them to investigate anyone other than federal officers and employees. Therefore,
42 private persons domiciled in states of the Union who do not participate in federal franchises as "public officers" are exempt.

1 If you disagree, please produce the statute which expressly authorizes the FBI to investigate OTHER than federal officers
2 and employees. It doesn't exist!

3 *"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one
4 thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,
5 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. When certain persons
6 or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be
7 inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
8 of a certain provision, other exceptions or effects are excluded."
9 [Black's Law Dictionary, Sixth Edition, p. 581]*

10 **8.4 Definitions within the Internal Revenue Code limit the I.R.C. to the District of Columbia** 11 **and the U.S. government, and exclude private persons**

12 The following definitions describe which "United States" and "State" that the Internal Revenue Code is intended for, and
13 nowhere are states of the Union mentioned.

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

16 (a) Definitions

17 (9) United States

18 The term "United States" when used in a geographical sense includes only the [States](#) and the District of
19 Columbia.

20 (10) State

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

23 The only defense the government has to explain why the states of the Union do not appear in the above is that the definition
24 uses the word "includes" and that the word "includes" is defined in 26 U.S.C. §7701(c) to be used in the sense of "in
25 addition to" as described in Black's Law Dictionary.

26 *"**Include.** (Lat. Includere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut
27 up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an
28 enlargement and have the meaning of and or in addition to, or merely specify a particular thing already
29 included within general words theretofore used. "Including" within statute is interpreted as a word of
30 enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron,
31 240 Or. 123, 400 P.2d. 227, 228."
32 [Black's Law Dictionary, Sixth Edition, p. 763 (1990)]*

33 The problem with their weak defense is that the statutes must SOMEWHERE indicate EVERYTHING that is included.
34 Even if states of the Union do not appear in the above *specific* definition, the rules of statutory construction still require that
35 what they specifically want to add to the definition must still appear in at least ONE section of the I.R.C. pertaining to the
36 tax in I.R.C. Subtitle A and it doesn't. Therefore, they are purposefully excluded.

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

44 *"When a statute includes an explicit definition, we must follow that definition, even if it varies from that
45 term's ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory
46 definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n.
47 10 ("As a rule, `a definition which declares what a term `means' . . . excludes any meaning that is not stated");
48 Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S.
49 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §
50 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at*

1 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include
2 the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the
3 contrary."
4 [[Stenberg v. Carhart, 530 U.S. 914 \(2000\)](#)]

5 Anyone who tries to pull the "includes" argument on you is using "presumption" as a means to create a state-sponsored
6 religion, in violation of the First Amendment. Presumptions are not evidence and may not be used as evidence in the
7 context of legal process or litigation and those who do employ them in violation of the rules of statutory construction are
8 violating due process of law and rendering their action void. If you would like more details on this scam and see why they
9 are LYING to you in order to usurp jurisdiction that doesn't exist, see the following:

[Meaning of the Words "includes" and "including", Form #05.006](http://sedm.org/Forms/FormIndex.htm)
<http://sedm.org/Forms/FormIndex.htm>

10 Similar arguments about the word "includes" also apply in the next section as well.

11 **8.5 Definitions within the Judiciary Code**

12 The following definitions describe which "United States" and "State" that the federal courts have jurisdiction over.

13 [TITLE 28](#) > [PART IV](#) > [CHAPTER 85](#) > Sec. 1332. [*Judiciary and Judicial Procedure*]
14 [Sec. 1332. - Diversity of citizenship; amount in controversy; costs](#)

15 (d) The word "States", as used in this section, includes the [Territories](#), the District of Columbia, and the
16 Commonwealth of Puerto Rico

17 If you would like to know more about the limited jurisdiction of the federal courts over federal property, franchises,
18 territory, and domiciliaries and why it doesn't apply within states of the Union to nearly all subject matters, see:

[What Happened to Justice?](http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm)
<http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm>

19 **9 Application to Treasury/IRS**

20 **9.1 Precedence of tax law**

21 This section will summarize all the statutes, regulations, and administrative guidance, their hierarchy, and whether they
22 have the "force and effect" of law such that they may be enforced, and who the audience for that enforcement.

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

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

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

- 32 2. The [Statutes at Large](#) have the next highest precedence, because they are created by Congress from the authority
33 derived from the U.S. Constitution.
- 34 3. Next comes the [U.S. Code](#), which implements the Statutes at Large. The U.S. code is written by the Law Revision
35 Council of the House of Representatives.
- 36 4. The [U.S. Code](#) then takes precedence over the [Code of Federal Regulations \(CFR\)](#)

1 5. The [Code of Federal Regulations \(CFR\)](#) then takes precedence over every [IRS publication](#). The Code of Federal
2 Regulations are written by the particular Executive Branch agency responsible for implementing the statutes in the U.S.
3 Code.

4 Understanding this hierarchy is very important when one considers the definitions of terms. Generally, terms used
5 throughout the [CFR's](#) and [IRS publications](#) are derived from the [U.S. Codes](#), which in turn are derived from the Statutes at
6 Large.

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

17 Below is a tabular summary of what we just explained to help you visualize what we mean. We jumped the gun on a few
18 of the items listed but this provides a good reference and starting point for later sections. The items below are in
19 precedence order, where the lower numbered items appearing first are of higher precedence than later or higher numbered
20 items:
21

1 **Table 9-1: Precedence of law**

Precedence #	Authority	Author	Force of Law? (Yes/No)	Evidentiary weight	Authorities
1	Constitution	"We the People"	Yes	Real	Carter v. Carter Coal Co., 298 U.S. 238 (1936)
2	Statutes at Large	Congress	Yes	Real	
3	U.S. Code	Congress	Yes in most cases. See Note 1	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 are do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
4	Code of Federal Regulations (CFR)	Various	Yes in most but not all cases. See Note 2	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 are do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
4.1	26 CFR Part 1: Income taxes	Treasury	Yes	Not evidence	
4.2	26 CFR Part 31: Employment taxes	Treasury	Yes	Not evidence	
4.3	26 CFR Part 301: Secretary of Treas. Regs	Treasury	Yes	Not evidence	1. 26 U.S.C. §7805(a). 2. 5 U.S.C. §553. 3. <i>Rowan Co., Inc. v. U.S.</i> , 452 U.S. 247, 101 S.Ct. 2288, 68 L.Ed.2d. 814 (1981)
4.4	26 CFR Part 601: Procedural Regs	IRS	No* See Note 4 below.	Not evidence	1. Einhorn v. Dewitt , 618 F.2d. 347 (5th Cir. 06/04/1980) 2. Luhring v. Glotzbach , 304 F.2d. 560 (4th Cir. 05/28/1962)
5	Internal Revenue Manual (IRM)	IRS	No* See Note 4 below.	Not evidence	1. U.S. v. Will , 671 F.2d. 963 (1982). Also click here 2. Internal Revenue Manual, Section 4.10.7.2.8.
6	Supreme Court Rulings	Supreme court	Yes	Real	Internal Revenue Manual 4.10.7.2.9.8
7	Circuit Court Rulings	Circuit court	No	Not evidence	Internal Revenue Manual 4.10.7.2.9.8
8	District Court Rulings	District court	No	Not evidence	Internal Revenue Manual 4.10.7.2.9.8
9	IRS Publications	IRS	No	Not evidence	U.S. v. Will , 671 F.2d. 963 (1982)
10	Treasury Decisions and Orders	Treasury	No	Not evidence	Internal Revenue Manual, Section 4.10.7.2.8.
11	IRS Telephone or agent advice	IRS	No	Not evidence	

2 **NOTES:**

- 3 1. Only have the force of law if enacted into positive law. The Internal Revenue Code is not enacted into positive law,
4 but is only prima facie evidence of law.
- 5 2. Only have the force of law if published and promulgated by the Secretary of the Treasury in the Federal Register in
6 accordance with the Administrative Procedures Act, 5 U.S.C. §553. All regulations promulgated in the Federal
7 Register are "legislative regulations".
- 8 3. The federal Statutes at Large are not available online from the government for any year after 1874. Our link above
9 to the [Statutes at Large](#) is for the period 1789-1873.
- 10 4. The internal procedures of the federal agency MUST be followed in any agency action that adversely affects the
11 rights of individuals. See *Morton v. Ruiz*, shown below. Consequently, all enforcement actions attempted by the
12 IRS must be in strict accordance with the Internal Revenue Manual and part 601 of 26 CFR, or the revenue agents
13 can be held personally liable for deprivations of rights under 42 U.S.C. §1983.

14 *"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.*
15 *This is so even where the internal procedures are possibly more rigorous than otherwise would be required.*
16 *Service v. Dulles*, [354 U.S. 363, 388](#) (1957); *Vitarelli v. Seaton*, [359 U.S. 535, 539-540](#) (1959). *The BIA, by its*
17 *Manual, has declared that all directives that "inform the public of privileges and benefits available" and of*
18 *"eligibility requirements" are among those to be published. The requirement that, in order to receive general*
19 *assistance, an Indian must reside directly "on" a reservation is clearly an important substantive policy that fits*

1 within this class of directives. Before the BIA may extinguish the entitlement of these otherwise eligible
2 beneficiaries, it must comply, at a minimum, with its own internal procedures.”
3 [*Morton v. Ruiz*, 415 U.S. 199, 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974)]

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

7 *Internal Revenue Manual*
8 [4.10.7.2.8 \(05-14-1999\)](#)
9 *IRS Publications*

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

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

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

16 **9.2 Analysis of Internal Revenue Service Enforcement Authority Generally**

17 We will now apply the concepts described earlier in this document to analyze the nature of the various types of regulations
18 published by the Treasury relating to internal revenue. To understand the nature of enforcement authority of Treasury
19 regulations published under the authority of 26 U.S.C, we must apply the following criteria:

- 20 1. Rules and regulations must be published if required by Congress before they may have *general applicability and legal*
21 *effect*. See 26 CFR §601.702(a)(2)(ii) and 5 U.S.C. §552(a).
22 2. General applicability and legal effect implies the ability of federal agencies and employees to impose a penalty. 44
23 U.S.C. §1505(a).
24 3. Pursuant to 5 U.S.C. §552(a)(1) of APA, substantive regulations must be published in the Federal Register (“FR”) or
25 the public is precluded from any adverse effect;
26 4. 5 U.S.C. §553(c) of the APA on rule making for the public requires that substantive regulations that may be enforced
27 against the general public must have a comment period. This period is not required if the regulation only has
28 application for agencies and its employees in the FR publication;
29 5. The holding in *Chrysler v. Brown*, 441 U.S. 281 (1979) requires that:
30 5.1. There are two types of regulations, which are also called “rules”:
31 5.1.1. Substantive rules.
32 5.1.2. Interpretive rules.
33 5.2. The only type of regulations that may be enforced are described as:
34 5.2.1. Having the “force and effect of law”.
35 5.2.2. “legislative-type”.
36 5.2.3. “substantive rules”
37 5.3. All regulations which may be enforced require a notice and comment period open to the public if the target of the
38 rule is the public. Otherwise, they may only be enforced within the government.
39 6. 5 U.S.C. §301 (federal employees) establishes that the head of an Executive or military department may prescribe
40 regulations for the *internal* government of his department.

41 [TITLE 5 > PART 1 > CHAPTER 3 > § 301](#)
42 [§ 301. Departmental regulations](#)

43 *The head of an Executive department or military department may prescribe regulations for the government of*
44 *his department, the conduct of its employees, the distribution and performance of its business, and the*
45 *custody, use, and preservation of its records, papers, and property. This section does not authorize withholding*
46 *information from the public or limiting the availability of records to the public.*

1 7. 26 U.S.C. §7805 describes the authority of the Secretary of the Treasury to publish rules “for the enforcement of this
2 title”.

3 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 80](#) > [Subchapter A](#) > § 7805
4 [§ 7805. Rules and regulations](#)

5 (a) Authorization

6 *Except where such authority is expressly given by this title to any person other than an officer or employee of
7 the Treasury Department, the **Secretary shall prescribe all needful rules and regulations for the enforcement**
8 **of this title, including all rules and regulations as may be necessary by reason of any alteration of law in**
9 **relation to internal revenue.***

10 8. The contents of the Federal Register are judicially noticed pursuant to 44 U.S.C. §1507. Anything from the Federal
11 Register therefore may be used as evidence in any judicial proceeding.

12 9. The procedural requirement for publishing rules and regulations are described in Morton v. Ruiz, 415 U.S. 199, 94
13 S.Ct. 1055, 39 L.Ed.2d. 270 (1974).

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

23 ***The Secretary has presented no reason why the requirements of the Administrative Procedure Act could not***
24 ***or should not have been met.*** Cf. *SEC v. Chenery Corp.*, 332 U.S. 194, 202, 67 S.Ct. 1575, 1580, 91 L.Ed. 1995
25 (1947). *The BIA itself has not attempted to defend its rule as a valid exercise of its ‘legislative power,’ but*
26 ***rather depends on the argument that Congress itself has not appropriated funds for *236 Indians **1075 not***
27 ***directly on the reservations. The conscious choice of the Secretary not to treat this extremely significant***
28 ***eligibility requirement, affecting rights of needy Indians, as a legislative-type rule, renders it ineffective so***
29 ***far as extinguishing rights of those otherwise within the class of beneficiaries contemplated by Congress is***
30 ***concerned.”***

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

32 We will start our analysis or IRS enforcement authority with the publication of 26 CFR §601.702, which is found at 67 FR
33 69675-69676, to wit:

34 26 CFR §601.702 Publication, public inspection, and specific requests for records.

35 (a) Publication in the Federal Register—

36 (1) Requirement.

37 (i) Subject to the application of the exemptions and exclusions described in the Freedom of Information
38 Act, 5 U.S.C. 552(b) and (c), and subject to the limitations provided in paragraph (a)(2) of this
39 section, **the IRS is required under 5 U.S.C. §552(a)(1), to state separately and publish currently in the**
40 **Federal Register for the guidance of the public the following information- -**

41 (A) Descriptions of its central and field organization and the established places at which, the persons
42 from whom, and the methods whereby, the public may obtain information, make submittals or
43 requests, or obtain decisions, from the IRS;

44 (B) Statement of the general course and method by which its functions are channeled and determined,
45 including the nature and requirements of all formal and informal procedures which are available;

46 (C) **Rules of procedure, descriptions of forms available or the places at which forms may be**
47 **obtained,** and instructions as to the scope and contents of all papers, reports, or examinations;

48 (D) **Substantive rules of general applicability adopted as authorized by law, and statements of**
49 **general policy or interpretations of general applicability formulated and adopted by the IRS;** and

(E) Each amendment, revision, or repeal of matters referred to in paragraphs (a)(1)(i)(A) through (D) of this section.

(ii) Pursuant to the foregoing requirements, the Commissioner publishes in the **Federal Register** from time to time a statement, which is not codified in this chapter, on the organization and functions of the IRS, and such amendments as are needed to keep the statement on a current basis. **In addition, there are published in the Federal Register the rules set forth in this part 601 (Statement of Procedural Rules), such as those in paragraph E of this section, relating to conference and practice requirements of the IRS; the regulations in part 301 of this chapter (Procedure and Administration Regulations) ; and the various substantive regulations under the Internal Revenue Code of 1986, such as the regulations in part 1 of this chapter (Income Tax Regulations) , in part 20 of this chapter (Estate Tax Regulations) , and in part 31 of this chapter (Employment Tax Regulations).**

(2) Limitations.

(i) Incorporation by reference in the Federal Register.

Matter which is reasonably available to the class of persons affected thereby, whether in a private or public publication, shall be deemed published in the Federal Register for purposes of paragraph (a)(1) of this section when it is incorporated by reference therein with the approval of the Director of the Office of the Federal Register. The matter which is incorporated by reference must be set forth in the private or public publication substantially in its entirety and not merely summarized or printed as a synopsis. Matter, the location and scope of which are familiar to only a few persons having a special working knowledge of the activities of the IRS, may not be incorporated in the Federal Register by reference. **Matter may be incorporated by reference in the Federal Register only pursuant to the provisions of 5 U.S.C. 552(a)(1) and 1 CFR part 20.**

(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 paragraph (a)(1) of this section **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 paragraph (a)(2)(i) of this section.** Thus, for example, **any such matter which imposes an obligation and which is not so published or incorporated by reference shall not *69676 adversely change or affect a person's rights.** [Emphasis added]

Based on the foregoing, the enforcement authority of regulations published in 26 CFR for the enforcement of the Internal Revenue Code are as summarized as follows:

1. 26 CFR Part 301 (Procedure and administration Regulations):

- 1.1. Published by the Secretary of the Treasury under the authority of 26 U.S.C. §7805.
- 1.2. Have the “force of law” and are legislative regulations.
- 1.3. Published as “final rules”.
- 1.4. Some part 301 regulations are not legislative, but interpretive. Example: 26 CFR §301.6331-1. See:

SEDM Exhibit #05.045: 48 F.R. 10060
<http://sedm.org/Exhibits/ExhibitIndex.htm>

2. 26 CFR Part 601 (Statement of Procedural Rules):

- 2.1. Published by the IRS Commissioner.
- 2.2. Do not have the “force of law”.
- 2.3. Are for **both agency (federal and state) employees.**
- 2.4. Published under the authority of 5 U.S.C. §301 and 5 U.S.C. §552, which authorizes regulations for a government department and its employees.
- 2.5. Do not have a comment period under 5 U.S.C. §553 and are therefore not substantive regulations imposing a obligation or duty upon the public.
- 2.6. May not be used for enforcement since enforcement requires 26 U.S.C. §7805 statutory Authority and part 601 regulations do not cite such authority when published in the Federal Register. See: [Einhorn v. Dewitt, 618 F.2d. 347 \(5th Cir. 06/04/1980\)](#) and [Luhring v. Glotzbach, 304 F.2d. 560 \(4th Cir. 05/28/1962\).](#)

“We, however, agree with the district court that this action arises from an Internal Revenue Service regulation and not an Act of Congress. **26 C.F.R. §601.107(b)(2) is a part of the Internal Revenue Service's Statement of Procedural Rules promulgated under 5 U.S.C. §§ 301, 552. Their purpose is to govern the internal affairs of the Internal Revenue Service. They do not have the force and effect of law.** United States v. Thomas, 593 F.2d. 615 (5th Cir. 1979). [Luhring v. Glotzbach, 304 F.2d. 560 \(4th Cir. 1962\).](#)”
[[Einhorn v. Dewitt, 618 F.2d. 347 \(5th Cir. 06/04/1980\)](#)]

1 3. Substantive (rules) regulations for 26 CFR Part 1 (Income Tax Regulations) , 26 CFR Part 20 (Estate Tax Regulations)
2 , and 26 CFR Part 31(Employment Tax Regulations):

3 3.1. Published by the Secretary of the Treasury.

4 3.2. Have the *force and effect of law for the public when under the statutory Authority of Congress as held in*
5 *Chrysler v. Brown, 441 U.S. 281 (1979)*. All such proposed rules:

6 3.3. Must have the mandatory comment period for the public under 5 U.S.C. §553.

7 3.4. Must be in compliance with 5 U.S.C. §552(a)(1) for substantive rules of general application.

8 3.5. Must be in compliance with 67 FR 69673-69688 on November 19, 2002, *supra*, and . . .

9 3.6. Must be published in the Federal Register as a **Final Rule**. If not so published in the Federal Register as a Final
10 Rule an individual can't be adversely affected.

11 4. Requirement to file tax returns:

12 4.1. Requirement to file returns found in 26 U.S.C. §6012 and 26 CFR §1.6012-1. See:

13 SEDM Exhibit #05.041

14 <http://sedm.org/Exhibits/ExhibitIndex.htm>

15 4.2. Requirement to file applies to:

16 4.2.1. "U.S. persons" under 26 U.S.C. §7701(a)(30) .

17 4.2.2. "Nonresident alien individuals".

18 4.3. 26 U.S.C. §7203, willful failure to file, has no implementing regulations under Part 1 of 26 CFR. Therefore,
19 requirement only pertains to those specifically exempted from the requirement to publish regulations.

20 5. Liens and levies:

21 5.1. 26 U.S.C. §6331 is the authority for lien and levy (distrain).

22 5.2. Audience for enforcement limited to the following under 26 U.S.C. §6331(a):

23 [TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331](#)
24 [§ 6331. Levy and distraint](#)

25 (a) Authority of Secretary

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

37 5.3. No enforcement regulations under Part 1 for 26 U.S.C. §6331 so can't do levies and distraint against private
38 public.

39 5.4. 26 CFR §301.6331-1 is only for use internally within the IRS, not against the general private public. See:

40 SEDM Exhibit #05.045

41 <http://sedm.org/Exhibits/ExhibitIndex.htm>

42 6. Assessment Authority:

43 6.1. Assessments made ONLY with a "return".

44 6.2. Only the "taxpayer" and not the IRS may assess. IRS may NOT lawfully assess human beings with a liability but
45 they can propose an assessment.

46 6.3. Substitute For Returns are NOT "assessments", but only proposed assessments:

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

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

52 SOURCE: <http://www.gao.gov/docsearch/repandtest.html>]

53 *"[IRS] Customer Service Division official commented on the phrase 'Substitute for Return.' They asked us to*
54 *emphasize that even though the program is commonly referred to as the SFR program, no actual tax return is*
55 *prepared."*

[Government Accounting Office Report GAO/GGD-00-60R, p. 2;

SOURCE: <http://www.gao.gov/docsearch/repandtest.html>]

6.4. 26 U.S.C. §6020(b) is the authority to executive assessments.

6.5. No implementing regulations under Part 1 of 26 CFR for 26 U.S.C. §6020, and therefore, assessments not allowed for I.R.C. Subtitle A income taxes.

For details on the above, see:

Why the Government Can't Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent,
Form #05.011
<http://sedm.org/Forms/FormIndex.htm>

7. The IRS routinely violates the Paperwork Reduction Act (“PRA”) by the following means, which thus establishes that its forms and procedures are only for internal use within the government:

7.1. 44 U.S.C. §3507(d) of PRA requires notice to and comment by the public in relation to all forms that collect information.

7.2. 44 U.S.C. §3506(c)(1)(B)(iii)(IV) requires the agency to inform the public if the information responses are voluntary, required to obtain a benefit, or mandatory.

7.3. IRS publishes its forms and publications under the authority of 26 CFR §601.702(a)(1)(i).

7.4. IRS Form 1040NR does not indicate whether the collection is mandatory or voluntary. They don't mention it because they don't want to admit that nonresident aliens have no obligations under the I.R.C.

7.5. OMB control numbers used by the IRS are issued in violation of the Paperwork Reduction Act because:

7.5.1. The IRS uses the same number on all their forms

7.5.2. Each form must have a unique number and must be renewed every three years.

7.6. Forms published by the IRS are published under statutory enforcement authority of 26 U.S.C. §7805.

If no substantive regulation is published in the Federal Register for each individual Code section under either Part 1, or under Part 20 or under Part 31 AND under 26 U.S.C. §7805 for enforcement, this is legal evidence that the statute may not be enforced against the public and applies only to government employees.

If an individual Code section is published under 26 CFR Part 301 AND under 26 U.S.C. §7805 for enforcement; then, that individual Code section is ONLY for agency employees precluding the public!

9.3 Secretary of the Treasury Required to Give “Notice” in the Federal Register of Requirement to file a return or keep records

26 U.S.C. §6001 requires that

[TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART I > § 6001](#)
[§ 6001. Notice or regulations requiring records, statements, and special returns](#)

*Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. **Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.** The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section [6053 \(c\)](#), and copies of statements furnished by employees under section [6053 \(a\)](#).*

The above statute is similar to 26 U.S.C. §7805, which empowers the Secretary of the Treasury to “ make all needful rules and regulations respecting the

[TITLE 26 > Subtitle F > CHAPTER 80 > Subchapter A > § 7805](#)
[§ 7805. Rules and regulations](#)

(a) Authorization

*Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the **Secretary shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.***

Taken together, both of the above statutes:

1. Impose a MANDATORY duty to publish all rules needed to enforce the entire Title 26. This is embodied in the words “shall prescribe all needful rules and regulations for the enforcement of this title”.
2. Cannot and do not waive the affirmative requirements of the Federal Register Act, 44 U.S.C. §1501(a) and the Administrative Procedures Act, 5 U.S.C. §553(a) to make enforcement regulations and thereby give “reasonable notice” in the case of enforcement directed against OTHER than the following specifically exempted groups:
 - 2.1. A military or 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. [44 U.S.C. §1505\(a\)\(1\)](#).
3. Impose a duty to make regulations and give “notice” to the public at large domiciled within states of the Union and protected by the Constitution and who are *not* in the above three specifically exempted groups. That notice must inform the public of their liability to the tax.

13 Giving of said notice and publication in the Federal Register serves the following purposes:

1. Serves the constitutional requirement for “due process of law”, in which you can only enforce a law by giving notice to the public at large and an opportunity to review and comment about the things that will be enforced against them.
2. Builds a public record of the legislative intent of the law that can be used by the courts in judicial review of the statute.
3. Ties a specific statute in I.R.C., Subtitle F, which is GENERAL administrative procedures for the entire I.R.C., to a specific tax within a specific section of the I.R.C. found in another Subtitle.
 - 3.1. The criminal provisions of the I.R.C. found in Subtitle F, for instance, cannot be violated unless a specific liability statute found ELSEWHERE in Subtitle A have been violated.
 - 3.2. The penalty provisions of the I.R.C. found in Subtitle F, for instance, cannot be violated unless a specific liability statute found ELSEWHERE in Subtitle A have been violated.

23 Subtitle A of the Internal Revenue Code is a tax primarily upon federal instrumentalities, employees, and public officers.
24 This is further explained below:

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

25 The subject of the tax is a “trade or business”, which is defined as “the functions of a public office” in [26 U.S.C. §7701\(a\)\(26\)](#). That definition is nowhere expanded to include any other thing, and it is an activity, which makes the tax an excise tax or franchise tax upon the privileged activity of “public office” within the U.S. government. In that sense, the term “U.S. sources” really means sources within the U.S. Government. Because the tax is primarily upon instrumentalities of the federal government, and because entities within the federal government are specifically exempted from the requirement for publication in the Federal Register, then statutes within the Internal Revenue Code may be directly enforced against these “public officials” without said publication in the Federal Register or any implementing regulations.

32 In fulfillment of the above within the Internal Revenue Code:

1. 26 CFR §1.6012-1 imposes a liability to file a return and this regulation has been published in the federal register. This regulation appears under 26 CFR Part 1, which is the income tax, and is therefore enforceable.
2. No other penalty or criminal statutes within the I.R.C. have enforcement provisions under Part 1 of 26 CFR, including the criminal provisions found in 26 U.S.C. §§7201 to 7217. We have searched all the regulations under Part 1 and no regulation applies any of these provisions to the specific under Part 1 as 26 CFR §1.6012-1 does. See for yourself:

<http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=200626>

38 Consequently, these provisions can ONLY apply to the three groups specifically exempted from the requirement for enforcement regulations. This is because constitutionally required “notice” has not been given to anyone else as required by 26 U.S.C. §§6001 and 7805. This is further explained in the following:

IRS Due Process Meeting Handout, Form #03.008
<http://sedm.org/Forms/FormIndex.htm>

41 Those who pursue quo warranto actions in court demanding proof of publication in the Federal Register of both the statutes and implementing regulations sought to be enforced by the IRS are sometimes met with the objection that the Secretary of

1 the Treasury has the responsibility and the discretion to publish implementing regulations but is not REQUIRED to. This is
2 documented in [26 U.S.C. §7805](#) above. Our approach to this weak argument often tendered by IRS and Dept. of Justice
3 employees is the following:

- 4 1. We agree that the Secretary of the Treasury has DISCRETION but is not REQUIRED to publish implementing
5 regulations for provisions within the Internal Revenue Code, HOWEVER.
- 6 2. The Secretary of the Treasury is not empowered to waive the constitutional and due process requirement for “due
7 notice” or “reasonable notice” in the case of persons domiciled in states of the Union who are protected by the
8 Constitution and the Bill of Rights.
- 9 3. The Internal Revenue Code is not positive law, and therefore essentially amounts to “presumed” law that may not be
10 cited directly against a person protected by the bill of rights without publication in the Federal Register and proof that
11 the statutes cited as authority is in fact positive law with a reference from the Statutes at Large proving it is positive
12 law. [1 U.S.C. §204](#), which says the I.R.C., Title 26 of the U.S. Code is “prima facie evidence”, which means basically
13 that it is simply a “presumption” and not evidence.
- 14 4. A “prima facie law” such as the I.R.C. cannot contradict or circumvent the requirements of a positive law. Both the
15 Federal Register Act, [44 U.S.C. §1505](#) et seq, and the Administrative Procedures Act, 5 U.S.C. §553 et seq, are
16 positive law that is legally admissible evidence, according to [1 U.S.C. §204](#).
- 17 5. In cases where the Secretary of the Treasury elects to NOT exercise his authority to write an implementing regulation
18 or to publish the affected statute AND rule/regulation in the Federal Register, the statute may then ONLY be enforced
19 against groups specifically exempted from the requirement for implementing regulations as follows:
20 5.1. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#).
21 5.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. 5
22 U.S.C. §553(a)(2).
23 5.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).
- 24 6. Therefore, any provision within the Internal Revenue Code Subtitle A which may be enforced civilly or criminally and
25 which might adversely affect the rights of the subject of the enforcement, therefore MUST have an implementing
26 regulation published in the Federal Register.

27 **9.4 Why it is UNLAWFUL for the I.R.S. to enforce Subtitle A of the Internal Revenue Code** 28 **within states of the Union**

29 The federal government enjoys NO legislative jurisdiction on land within the exterior limits of a state of the Union that is
30 not its own territory. The authorities for this fact are as follows:

- 31 1. The U.S. Supreme Court has stated repeatedly that the United States federal government is without ANY legislative
32 jurisdiction within the exterior boundaries of a sovereign state of Union:

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

39
40 *"It is no longer open to question that **the general government, unlike the states,** *Hammer v. Dagenhart, [247](#)*
41 *[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***
42 ***internal affairs of the states; and emphatically not with regard to legislation.**"*
43 *[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]**

44 If you meet with someone from the IRS, ask them whether the Internal Revenue Code qualifies as “legislation” within
45 the meaning of the above rulings. Tell them you aren’t interested in court cases because judges cannot make law or
46 create jurisdiction where none exists.

- 47 2. [40 U.S.C. §3112](#) creates a presumption that the United States government does not have jurisdiction unless it
48 specifically accepts jurisdiction over lands within the exterior limits of a state of the Union:

49 *TITLE 40 - PUBLIC BUILDINGS, PROPERTY, AND WORKS*
50 *SUBTITLE II - PUBLIC BUILDINGS AND WORKS*
51 *PART A - GENERAL*
52 *CHAPTER 31 - GENERAL*

SUBCHAPTER II - ACQUIRING LAND

Sec. 3112. Federal jurisdiction

(a) *Exclusive Jurisdiction Not Required.* - It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) *Acquisition and Acceptance of Jurisdiction.* - When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) *Presumption.* - It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

[SOURCE: http://www4.law.cornell.edu/uscode/html/uscode40/usc_sec_40_00003112----000-.html]

3. The Uniform Commercial Code defines the term “United States” as the District of Columbia:

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>]

4. [Article 1](#), Section 8, Clause 17 of the Constitution expressly limits the territorial jurisdiction of the federal government to the ten square mile area known as the District of Columbia. Extensions to this jurisdiction arose at the signing of the Treaty of Peace between the King of Spain and the United States in Paris France, which granted to the United States new territories such as Guam, Cuba, the Philippines, etc.

5. [4 U.S.C. §72](#) limits the exercise of all “public offices” and the application of their laws to the District of Columbia and NOT elsewhere except as expressly provided by 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.

6. The Internal Revenue Code Subtitle A places the income tax primarily upon a “trade or business”. The U.S. Supreme Court expressly stated that Congress may not establish a “trade or business” in a state of the Union and tax it.

*“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)]

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

[The Trade or Business Scam](#), Form #05.001

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

8. The IRS and the DOJ have been repeatedly asked for the statute which “expressly extends” the “public office” that is the subject of the tax upon “trade or business” activities within states of the Union. NO ONE has been able to produce such a statute because IT DOESN’T EXIST. There is no provision of law which “expressly extends” the enforcement of Subtitle A of the Internal Revenue Code to any state of the Union. Therefore, IRS jurisdiction does not exist there.

*“**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*]

- 1 9. [48 U.S.C. §1612](#) expressly extends the enforcement of the criminal provisions of the Internal Revenue Code to the
2 Virgin Islands and is the only enactment of Congress that extends enforcement of any part of the Internal Revenue
3 Code to any place outside the District of Columbia.
4 10. The U.S. Supreme Court commonly refers to states of the Union as “foreign states”. To wit:

5 *We have held, upon full consideration, that although under existing statutes a circuit court of the United States*
6 *has jurisdiction upon habeas corpus to discharge from the custody of state officers or tribunals one restrained*
7 *of his liberty in violation of the Constitution of the United States, it is not required in every case to exercise its*
8 *power to that end immediately upon application being made for the writ. 'We cannot suppose,' this court has*
9 *said, 'that Congress intended to compel those courts, by such means, to draw to themselves, in the first instance,*
10 *the control of all criminal prosecutions commenced in state courts exercising authority within the same*
11 *territorial limits, where the accused claims that he is held in custody in violation of the Constitution of the*
12 *United States. The injunction to hear the case summarily, and thereupon 'to dispose of the party as law and*
13 *justice require' [R. S. 761], does not deprive the court of discretion as to the time and mode in which it will*
14 *exert the powers conferred upon it. That discretion should be exercised in the light of the relations existing,*
15 *under our system of government, between the judicial tribunals of the Union and of the states, and in*
16 *recognition of the fact that the public good requires that those relations be not disturbed by unnecessary*
17 *conflict between courts equally bound to guard and protect rights secured by the Constitution. When the*
18 *petitioner is in custody by state authority for an act done or omitted to be done in pursuance of a law of the*
19 *United States, or of an order, process, or decree of a court or judge thereof; or where, being a subject or*
20 *citizen of a foreign state, and domiciled therein, he is in custody, under like authority, for an act done or*
21 *omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the*
22 *commission, or order, or sanction of any foreign state, or under color thereof, the validity and effect whereof*
23 *depend upon the law of nations; in such and like cases of urgency, involving the authority and operations of*
24 *the general government, or the obligations of this country to, or its relations with, foreign nations, [180 U.S.*
25 *499, 502] the courts of the United States have frequently interposed by writs of habeas corpus and*
26 *discharged prisoners who were held in custody under state authority. So, also, when they are in the custody of*
27 *a state officer, it may be necessary, by use of the writ, to bring them into a court of the United States to testify as*
28 *witnesses.' Ex parte Royall, [117 U.S. 241, 250](#), 29 S.L.Ed. 868, 871, 6 Sup.Ct.Rep. 734; Ex parte Fonda, [117](#)
29 [U.S. 516, 518](#), 29 S.L.Ed. 994, 6 Sup.Ct.Rep. 848; Re Duncan, [139 U.S. 449](#), 454, sub nom. Duncan v. McCall,*
30 *35 L.Ed. 219, 222, 11 Sup.Ct.Rep. 573; Re Wood, [140 U.S. 278](#), 289, Sub nom. Wood v. Bursh, 35 L.Ed. 505,*
31 *509, 11 Sup.Ct.Rep. 738; McElvaine v. Brush, [142 U.S. 155, 160](#), 35 S.L.Ed. 971, 973, 12 Sup.Ct.Rep. 156;*
32 *Cook v. Hart, [146 U.S. 183, 194](#), 36 S.L.Ed. 934, 939, 13 Sup.Ct.Rep. 40; Re Frederick, [149 U.S. 70, 75](#), 37*
33 *S.L.Ed. 653, 656, 13 Sup.Ct.Rep. 793; New York v. Eno, [155 U.S. 89, 96](#), 39 S.L.Ed. 80, 83, 15 Sup.Ct.Rep. 30;*
34 *Pepke v. Cronan, [155 U.S. 100](#), 39 L.Ed. 84, 15 Sup.Ct.Rep. 34; Re Chapman, [156 U.S. 211, 216](#), 39 S.L.Ed.*
35 *401, 402, 15 Sup.Ct.Rep. 331; Whitten v. Tomlinson, [160 U.S. 231, 242](#), 40 S.L.Ed. 406, 412, 16 Sup.Ct.Rep.*
36 *297; Iasigi v. Van De Carr, [166 U.S. 391, 395](#), 41 S.L.Ed. 1045, 1049, 17 Sup.Ct.Rep. 595; Baker v. Grice, [169](#)
37 [U.S. 284, 290](#), 42 S.L.Ed. 748, 750, 18 Sup.Ct.Rep. 323; Tinsley v. Anderson, [171 U.S. 101, 105](#), 43 S.L.Ed.*
38 *91, 96, 18 Sup.Ct.Rep. 805; Fitts v. McGhee, [172 U.S. 516, 533](#), 43 S.L.Ed. 535, 543, 19 Sup.Ct.Rep. 269;*
39 *Markuson v. Boucher, [175 U.S. 184](#), 44 L.Ed. 124, 20 Sup.Ct.Rep. 76.*
40 *[State of Minnesota v. Brundage, 180 U.S. 499 (1901)]*

- 41 11. [The Federal Register Act, 44 U.S.C. §1505\(a\)](#), and the [Administrative Procedures Act, 5 U.S.C. §553\(a\)](#) both require
42 that when a federal agency wishes to enforce any provision of statutory law within a state of the Union, it must write
43 proposed implementing regulations, publish them in the Federal Register, and thereby give the public opportunity for
44 “notice and comment”. Notice that 44 U.S.C. §1508 says that the Federal Register is the official method for providing
45 “notice” of laws that will be enforced in “states of the Union”. There are no implementing regulations authorizing the
46 enforcement of most enforcement provisions of the Internal Revenue Code within any state of the Union, and therefore
47 it cannot be enforced against the general public domiciled within states of the Union. See the following for exhaustive
48 proof:

[IRS Due Process Meeting Handout](#), Form #03.008
<http://sedm.org/Forms/FormIndex.htm>

- 49 12. Various provisions of law indicate that when implementing regulations authorizing enforcement have NOT been
50 published in the Federal Register, then the statutes cited as authority may NOT prescribe a penalty or adversely affect
51 rights protected by the Constitution of the United States:

52 [TITLE 5 > PART 1 > CHAPTER 5 > SUBCHAPTER II > § 552](#)
53 [§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in](#)
54 [Federal Register as notice of hearing](#)

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

1 [26 CFR §601.702](#) Publication and public inspection

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

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

- 9 13. 44 U.S.C. §1505(a) and 5 U.S.C. §553(a) both indicate that the only case where an enactment of the Congress can be
10 enforced DIRECTLY against persons domiciled in states of the Union absent implementing regulations is for those
11 groups specifically exempted from the requirement. These groups include:
12 13.1. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#) .
13 13.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)
14 [U.S.C. §553\(a\)\(2\)](#) .
15 13.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).
16 14. The Internal Revenue Code itself defines and limits the term “United States” to include only the District of Columbia
17 and nowhere expands the term to include any state of the Union. Consequently, states of the Union are not included.

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

20 (a)(9) United States

21 *The term "United States" when used in a geographical sense includes only the [States](#) and the District of*
22 *Columbia.*

23 (a)(10) State

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

- 26 15. [26 U.S.C. §7601](#) authorizes enforcement of the Internal Revenue Code and discovery related to the enforcement *only*
27 within the bounds of internal revenue districts. Any evidence gathered by the IRS outside the District of Columbia is
28 UNLAWFULLY obtained and in violation of this statute, and therefore inadmissible. See *Weeks v. United States*, [232](#)
29 [U.S. 383](#) (1914), which says that evidence unlawfully obtained is INADMISSIBLE.
30 16. [26 U.S.C. §7621](#) authorizes the President of the United States to define the boundaries of all internal revenue districts.
31 16.1. The President delegated that authority to the Secretary of the Treasury pursuant to Executive Order 10289.
32 16.2. Neither the President nor his delegate, the Secretary of the Treasury, may establish internal revenue districts
33 outside of the “United States”, which is then defined in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10), [26 U.S.C.](#)
34 [§7701\(a\)\(39\)](#), and [26 U.S.C. §7408\(d\)](#) to mean ONLY the District of Columbia.
35 16.3. Congress cannot delegate to the President or the Secretary an authority within states of the Union that it does not
36 have. Congress has NO LEGISLATIVE JURISDICTION within a state of the Union.

37 *“It is no longer open to question that **the general government, unlike the states**, *Hammer v. Dagenhart*, [247](#)
38 [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**
39 **internal affairs of the states; and emphatically not with regard to legislation.**“
40 [*Carter v. Carter Coal Co.*, [298 U.S. 238](#), 56 S.Ct. 855 (1936)]*

- 41 17. [Treasury Order 150-02](#) abolished all internal revenue districts *except* that of the District of Columbia.
42 18. IRS is delegate of the Secretary in insular possessions, as “delegate” is defined at [26 U.S.C. §7701\(a\)\(12\)\(B\)](#), but NOT
43 in states of the Union.

44 Based on all the above authorities:

- 45 1. The word “INTERNAL” in the phrase “INTERNAL Revenue Service” means INTERNAL to the federal government
46 or the federal zone. This includes people OUTSIDE the federal zone but who have a domicile there, such as citizens
47 and residents abroad coming under a tax treaty with a foreign country, pursuant to 26 U.S.C. §911. It DOES NOT

1 include persons domiciled in states of the Union, who in fact are not statutory "U.S. citizens" pursuant to 8 U.S.C.
2 §1401, but rather "nationals but not citizens" under federal law. See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002

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

- 3 2. The U.S. Supreme Court has repeatedly affirmed that there is *no basis* to believe that any part of the federal
4 government enjoys any legislative jurisdiction within any state of the Union, including in its capacity as a lawmaker for
5 the general government. This was confirmed by one attorney who devoted his life to the study of Constitutional law
6 below:

7 "§79. [. . .]There cannot be two separate and independent sovereignties within the same limits or jurisdiction;
8 nor can there be two distinct and separate sources of sovereign authority within the same jurisdiction. The right
9 of commanding in the last resort can be possessed only by one body of people inhabiting the same territory,
10 and can be executed only by those intrusted with the execution of such authority."

11 [*Treatise on Government, Joel Tiffany, p. 49, Section 78;*

12 SOURCE: <http://famguardian.org/Publications/TreatiseOnGovernment/TreatOnGovt.pdf>]

13 Our public dis-servants have tried to systematically destroy this separation using a combination of LIES,
14 PROPAGANDA in unreliable government publications, and the abuse of "words of art" in the void for vagueness
15 "codes" they write in order to hunt and trap and enslave you like an animal.

16 *But this is a people robbed and plundered;*
17 *All of them are snared in [legal] holes, [by the sophistry of rebellious public "servant" lawyers]*
18 *And they are hidden in prison houses;*
19 *They are for prey, and no one delivers;*
20 *For plunder, and no one says, "Restore!"*
21 *Who among you will give ear to this?*
22 *Who will listen and hear for the time to come?*
23 *Who gave Jacob [Americans] for plunder, and Israel [America] to the robbers?*
24 *Was it not the LORD,*
25 *He against whom we have sinned?*
26 *For they would not walk in His ways,*
27 *Nor were they obedient to His law.*
28 *Therefore He has poured on him the fury of His anger*
29 *And the strength of battle;*
30 *It has set him on fire all around,*
31 *Yet he did not know;*
32 *And it burned him,*
33 *Yet he did not take it to heart.*
34 [*Isaiah 42:22-25, Bible, NKJV*]

35 Your government is a PREDATOR, not a PROTECTOR. Wake up people! If you want to know what your public
36 servants are doing to systematically disobey and destroy the main purpose of the Constitution and destroy your rights
37 in the process, read the following expose:

Government Conspiracy to Destroy the Separation of Powers Doctrine, Form #05.023

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

- 38 3. The PROPAGANDA you read on the IRS website that contradicts the content of this section honestly (for ONCE!)
39 identifies itself as the equivalent of BUTT WIPE that isn't worth the paper it is printed on and which you can't and
40 shouldn't believe. This BUTT WIPE, incidentally, includes ALL the IRS publications and forms:

41 "*IRS Publications, issued by the National Office, explain the law in plain language for taxpayers and their*
42 *advisors... While a good source of general information, publications should not be cited to sustain a position."*

43 [*IRM 4.10.7.2.8 (05-14-1999)*]

- 44 4. If you want to know what constitutes a "reasonable source of belief" about federal jurisdiction in the context of
45 taxation, please see the following. Note that it concludes that you CAN'T trust anything a tax professional or
46 government employee or even court below the Supreme Court says on the subject of taxes, and this conclusion is based
47 on the findings of the courts themselves!

Reasonable Belief About Income Tax Liability, Form #05.007

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

1 **9.5 Tabular Summary of Enforcement Regulations for Title 26: None exist**

2 This section provides a convenient worksheet you can use against any IRS agent who seeks to enforce the payment of any
3 type of tax. It can be used at any tax audit or attached to any correspondence to easily demonstrate that the agent has no
4 authority to collect. Simply ask the agent the following questions:

- 5 1. Tax IRS says the target of this investigation is *liable for* and I.R.C. section number where
6 imposed: _____
- 7 2. Please fill in the implementing regulations that authorize enforcement authority for the specific type of tax you seek to
8 enforce indicated in the table. This is accomplished by filling in the blanks underneath the statute listed in each
9 column. Without implementing regulations for everything, the IRS has no authority to proceed.

10 If you would like a more thorough treatment of how to respond to IRS enforcement activity, see the following book in our
11 bookstore:

<p><i>What to Do When the IRS Comes Knocking</i>, Form #09.002 http://sedm.org/Forms/FormIndex.htm</p>
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Tax	Sub title	Tax Imposed Statute/ regulation	Liability statute/ regulation	Enforcing agency	ENFORCEMENT STATUTE AND ACCOMPANYING REGULATIONS			
					Assessment statute/regulation	Record keeping	Collection statute/ regulation	Penalty statute/ regulation
Income tax	A	26 U.S.C. §1 26 CFR §1.1-1	26 U.S.C. § 26 CFR §	IRS	26 U.S.C. §6201(a)(1) 26 CFR §1.	26 U.S.C. §6001 26 CFR §1.	26 U.S.C. §6331 26 CFR §1.	26 U.S.C. §6672 26 CFR §1.
Estate and Gift Taxes	B	26 U.S.C. §2001 26 CFR §	26 U.S.C. §2002 (executor) 26 CFR §	IRS	26 U.S.C. §6201(a)(1) 26 CFR §1.	26 U.S.C. §6001 26 CFR §	26 U.S.C. §6331 26 CFR §	26 U.S.C. §6672 26 CFR §
Social Security Tax	C	26 U.S.C. §3101 26 CFR §	26 U.S.C. § 26 CFR §	IRS	26 U.S.C. §6201(a)(1) 26 CFR §31.	26 U.S.C. §6001 26 CFR §	26 U.S.C. §6331 26 CFR §31.	26 U.S.C. §6672 26 CFR §31.
Employment Taxes	C	26 U.S.C. §3401 26 CFR §	26 U.S.C. § 26 CFR §	IRS	26 U.S.C. §6201(a)(1) 26 CFR §31.	26 U.S.C. §6001 26 CFR §	26 U.S.C. §6331 26 CFR §31.	26 U.S.C. §6672 26 CFR §31.
Insurance policies of foreign insurers	D	26 U.S.C. §4371 26 CFR §	26 U.S.C. §4374 26 CFR §	IRS	26 U.S.C. §6201(a)(1) 26 CFR §1.	26 U.S.C. §6001 26 CFR §	26 U.S.C. §6331 No regulations	26 U.S.C. §6672 26 CFR §31.
Wagering tax	D	26 U.S.C. §4401(a) 26 CFR §	26 U.S.C. §4401(c) 26 CFR §	BATF	26 U.S.C. §6201(a)(1) 27 CFR §70.71	26 U.S.C. §6001 26 U.S.C. §4403 26 CFR §	26 U.S.C. §6331 27 CFR §70.51	26 U.S.C. §6672 27 CFR §70.96 thru- §70.103 27 CFR §70.509, 610
Distilled spirits	E	26 U.S.C. §5001(a)(1)-(a)(2)	26 U.S.C. §5005 26 U.S.C. §5043(a)(1)(A)	BATF	26 U.S.C. §6201(a)(2) 27 CFR §70.71	26 U.S.C. §6001 26 U.S.C. §5114(a)(1) 26 U.S.C. §5124(a) 26 CFR §	26 U.S.C. §6331 27 CFR §70.51	26 U.S.C. §6672 27 CFR §70.96 thru- §70.103 27 CFR §70.509, 610
Tobacco tax	E	26 U.S.C. §5701	26 U.S.C. §5703(a)	BATF	26 U.S.C. §6201(a)(2) 27 CFR §70.71	26 U.S.C. §6001 26 U.S.C. §5741 26 CFR §	26 U.S.C. §6331 27 CFR §70.51	26 U.S.C. §6672 27 CFR §70.96 thru- §70.103 27 CFR §70.509, 610

1

1 **NOTES:**

- 2 1. The only “persons” liable for penalties related to ANY tax are federal corporations or their employees pursuant to 26
3 U.S.C. §6671(b), 26 U.S.C. §7343, and 26 CFR §1.6671-1(b).
- 4 2. [26 U.S.C. §6201](#) is the only statute authorizing assessment instituted by the Secretary, and this assessment may only be
5 accomplished under 6201(a)(2) for taxes payable by stamp and not on a return, all of which are tobacco and alcohol
6 taxes.
- 7 3. The only statutory collection activity authorized is under [26 U.S.C. §6331](#), and 6331(a) of this section only authorizes
8 levy against elected or appointed officers of the U.S. government. The only other type of collection that can occur
9 must be the result of a court order and NOT either a Notice of Levy or a Notice of Seizure.

10 *26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes*
11 [Sec. 6331](#). *Levy and distraint*

12 (a) *Authority of Secretary*

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

24 (b) *Seizure and sale of property*

25 *The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as*
26 *otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at*
27 *the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize*
28 *and sell such property or rights to property (whether real or personal, tangible or intangible).*

29 The rules of statutory construction forbid adding anyone not expressly mentioned above to the statutes as written.
30 Whatever the IRS wishes to add to the I.R.C. definitions or statutes MUST expressly be described SOMEWHERE in
31 the I.R.C. or it is presumed to be purposefully excluded:

32 *"When a statute includes an explicit definition, we must follow that definition, even if it varies from that*
33 *term's ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory*
34 *definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n.*
35 *10 ("As a rule, `a definition which declares what a term "means" . . . excludes any meaning that is not stated");*
36 *Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945) ; Fox v. Standard Oil Co. of N.J., 294 U.S.*
37 *87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §*
38 *47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at*
39 *998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include*
40 *the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the*
41 *contrary."*
42 *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

43 *"Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one*
44 *thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,*
45 *170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. When certain persons*
46 *or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be*
47 *inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects*
48 *of a certain provision, other exceptions or effects are excluded."*
49 *[Black's Law Dictionary, Sixth Edition, p. 581]*

- 50 4. The only IRS agents who are authorized to execute any of the enforcement activity listed above must carry a pocket
51 commission which designates them as “E” for enforcement rather than “A” for administrative.
- 52 5. For the purposes of all taxes above, the term “employee” is defined as follows:

53 [26 U.S.C. Sec. 3401\(c\)](#)

1 Employee

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

6
7 26 CFR §31.3401(c) Employee: "...the term [employee] includes officers and employees, whether elected or
8 appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof,
9 or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term
10 'employee' also includes an officer of a corporation."

11
12 8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267

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

16 **9.6 Tabular Summary of Discovery regulations for Title 26: None Exist**

17 This section is useful if you are called into a summons in which the IRS is doing discovery of information in order to
18 enforce the payment of income taxes. Have the agent fill in the implementing regulations that authorize summons authority
19 for the specific type of tax sought to be enforced. This is accomplished by filling in the blanks underneath the statute listed
20 in each column. Without implementing regulations for everything, the IRS has no authority to proceed with discovery of
21 the tax liability in question.

Tax	Sub title	Tax Imposed Statute/ regulation	Liability statute/ regulation	Enforcing agency	DISCOVERY REGULATIONS			
					Summons authority	Issuance of summons	Enforcement of summons and jurisdiction	Record keeping
Income tax	A	26 U.S.C. §1 26 CFR §1.1-1	26 U.S.C. §_____ 26 CFR §_____	IRS	26 U.S.C. §7602 26 CFR §1._____	26 U.S.C. §7603 26 CFR §1._____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 CFR §1._____
Estate and Gift Taxes	B	26 U.S.C. §2001 26 CFR §_____	26 U.S.C. §2002 (executor) 26 CFR §_____	IRS	26 U.S.C. §7602 26 CFR §1._____	26 U.S.C. §7603 26 CFR §_____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 CFR §_____
Social Security Tax	C	26 U.S.C. §3101 26 CFR §_____	26 U.S.C. §_____ 26 CFR §_____	IRS	26 U.S.C. §7602 26 CFR §31._____	26 U.S.C. §7603 26 CFR §31._____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 CFR §_____
Employment Taxes	C	26 U.S.C. §3401 26 CFR §_____	26 U.S.C. §_____ 26 CFR §_____	IRS	26 U.S.C. §7602 26 CFR §31._____	26 U.S.C. §7603 26 CFR §31._____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 CFR §_____
Insurance policies of foreign insurers	D	26 U.S.C. §4371 26 CFR §_____	26 U.S.C. §4374 26 CFR §_____	IRS	26 U.S.C. §7602 26 CFR §1._____	26 U.S.C. §7603 26 CFR §_____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 CFR §_____
Wagering tax	D	26 U.S.C. §4401(a) 26 CFR §_____	26 U.S.C. §4401(c) 26 CFR §_____	BATF	26 U.S.C. §7602	26 U.S.C. §7603 26 CFR §_____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 U.S.C. §4403 26 CFR §_____
Distilled spirits	E	26 U.S.C. §5001(a)(1)-(a)(2)	26 U.S.C. §5005 26 U.S.C. §5043(a)(1)(A)	BATF	26 U.S.C. §7602	26 U.S.C. §7603 26 CFR §_____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 U.S.C. §5114(a)(1) 26 U.S.C. §5124(a) 26 CFR §_____
Tobacco tax	E	26 U.S.C. §5701	26 U.S.C. §5703(a)	BATF	26 U.S.C. §7602	26 U.S.C. §7603 26 CFR §_____	26 U.S.C. §7602(b) 26 U.S.C. §7604 26 CFR §_____	26 U.S.C. §6001 26 U.S.C. §5741 26 CFR §_____

1

1 **NOTES:**

- 2 1. If the witness is a human being and the investigation pertains only to him, then under the Fifth Amendment to the U.S.
3 Constitution, the witness has the right to say "Fifth Amendment" in answer to every question asked and may not be
4 penalized for doing so.
- 5 2. Certain types of relationships enjoy protection from discovery and IRS may NOT ask for information from such
6 sources unless you consent to release such information:
- 7 2.1. Your retained attorney's work product and your discussions with him/her. *Swidler & Berlin v. United States*, 524
8 U.S. 399, 403 118 S.Ct. 1081, 1084 (1998); *Fisher v. United States*, 425 U.S. 391, 403, 96 S.Ct. 1569, 1577
9 (1976).
- 10 2.2. Your spouse
- 11 2.2.1. Adverse evidence or testimony provided by a spouse is inadmissible in a criminal case. *United States v.*
12 *Porter*, 986 F.2d. 1014, 1018 (6th Cir); *United States v. Marashi*, 913 F.2d. 724, 729 (9th Cir.1990).
- 13 2.2.2. Cannot be compelled to testify against you. *United States v. Port*, 986 F.2d. at 1018.
- 14 2.2.3. Cannot be compelled to testify against you even if you are not a party to a proceeding. *In Re Grand Jury*
15 *Matter*, 673 F.2d. 688, 692-294 (3rd Cir. 1982).
- 16 2.2.4. Valid marriage must exist at the time of testimony. Ex spouses are excluded.
- 17 2.2.5. Witness spouses may waive their privilege not to testify by volunteering to do so.
- 18 2.3. Your doctor or psychologist.
- 19 3. Third party summons require that the IRS notify taxpayer in advance under [I.R.C. §7609](#).
- 20 4. Interfering with summons:
- 21 4.1. Witnesses may be legally compelled to produce books and records if they admit to having them. Therefore, it is
22 important never to admit to having any books or records or bring them with you to the meeting.
- 23 4.2. Destruction of records could be a criminal act, and releasing them to a third party could subject the summoned
24 person to a contempt citation. See *United States v. Schoeberlein*, 335 F.Supp. 1048 (D.Md.1971).
- 25 5. Limitations on IRS summons authority:
- 26 5.1. Under [26 U.S.C. §7203\(c\)](#), IRS may not issue summons after it has referred a case to the Department of Justice
27 with a recommendation of prosecution or grand jury investigation.
- 28 5.2. After the referral has been terminated, authority of IRS to issues summons resumes. Termination occurs by its
29 declining to prosecute or discontinuing a grand jury investigation, as well as by the final disposition of any actual
30 criminal prosecution.
- 31 5.3. A summons may not be issued if a return or return information has been requested by the Justice Department
32 under I.R.C. §6103(h)(2).
- 33 6. Time and place of examination is defined by 26 U.S.C. §7605(a).
- 34 7. Challenging summons:
- 35 7.1. Summoned person must demonstrate the purpose of the summons is "to harass the taxpayer or to put pressure on
36 him to settle a collateral dispute, or for any other purpose reflecting on the good faith of the particular
37 investigation". *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248, 13 L.Ed.2d. 112 (1964)
- 38 7.2. May be challenged if information being sought is already in possession of the IRS. See *United States v. Powell*,
39 379 U.S. 48, 85 S.Ct. 248, 13 L.Ed.2d. 112 (1964)
- 40 8. Summoned person is entitled to:
- 41 8.1. Not be compelled to create or prepare any new document or to sign a written statement in lieu of giving oral
42 testimony. *United States v. Davey*, 543 F.2d. 996 (2d Cir.1976); *United States v. Levy* (5th Cir.1976);IRM
43 4022.64(4).
- 44 8.2. Tape record the interview. See [26 U.S.C. §7521\(a\)](#) and IRM 4.10.3.2.6.
- 45 8.3. Witness fees and mileage under I.R.C. §7601(a)(1).
- 46 8.4. Reimbursement for cost and time involved in locating, reproducing, and transporting the documents requested.
- 47 8.5. Have a representative or assistance of counsel.
- 48 8.6. Rights defined in [I.R.C. §7521](#).
- 49 8.7. If the IRS records the interview, the person interviewed is entitled to a transcript of the interview under I.R.C.
50 §7521(a), provided they pay the expense.
- 51 8.8. Have an inspection of books and records *only once* under I.R.C. §7605(b). Second inspection is not allowed. See
52 *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248, 13 L.Ed.2d. 112 (1964).
- 53 8.9. Not have the referral to the Department of Justice delayed in order to terrorize or harass the target of the
54 investigation. See *United States v. LaSalle National Bank*, 437 U.S. 298, 98 S.Ct. 2357, 57 L.Ed.2d. 221 (S.Ct.
55 1978)

1 8.10. Not be punished by the IRS for resisting a summons or to be compelled to compliance. IRS must instead either
2 institute an enforcement proceeding under [I.R.C. 7402\(b\)](#) or seek a court order to have the person arrested and
3 held for a contempt and enforcement hearing under I.R.C. §7604(b).

4 9. Burden of proof in summons enforcement proceedings is on the government to demonstrate that the summons is for a
5 legitimate and relevant purpose. The four things the government must prove, according to the U.S. Supreme Court in
6 *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248, 13 L.Ed.2d. 112 (1964):

7 9.1. the examination that the summons relates to is being conducted for a legitimate purpose;

8 9.2. The summons seeks information that may be relevant to that purpose;

9 9.3. The IRS is not already in possession of the information; and

10 9.4. The administrative steps spelled out in the Code have been followed.

11 If the government establishes compliance with the above standards, the burden shifts to the summoned person to rebut
12 the showing by proof of an improper purpose or bad faith.

13 **10 How to Use Information in This Pamphlet to Challenge Government Enforcement Authority** 14 **During Litigation**

15 Based on the previous question, a very simple way challenge jurisdiction whenever the government attempts to make you a
16 target of enforcement activity is simply to demand the following from your opponent both in your pleadings and through
17 the discovery process using the language that occupies the remainder of this section. The language supposes that you are
18 the Plaintiff and that your opponent is the U.S. government:

19 _____
20
21 1. The Federal Register Act, 44 U.S.C. §1505(a), requires that any law “having generally applicability and legal effect”
22 must have implementing regulations published in the Federal Register. It then describes the meaning of the phrase
23 “general applicability and legal effect” as:

24 *“For the purposes of this chapter every document or order which prescribes a penalty has general applicability*
25 *and legal effect.”*
26 *[44 U.S.C. §1505(a)]*

27 2. 44 U.S.C. §1508 describes WHY publication is required: To give “notice and opportunity for hearing” to the public at
28 large of the laws they will be bound by. That process of “notice and hearing” is described in 5 U.S.C. §553(c). The
29 group of people intended to receive the constitutionally required “reasonable notice” it defines as:

30 *“. . . all persons residing [domiciled] within the States of the Union and the District of Columbia. . .”*
31 *[44 U.S.C. §1508]*

32 3. Without the constitutionally required “notice and hearing” to these specific groups, no statute enacted by Congress may
33 lawfully prescribe a penalty against any member of said groups, as required by 44 U.S.C. §1505(a). *NAACP v.*
34 *Wilmington Medical Center, Inc.*, D.C.Del.1978, 453 F.Supp. 330.

35 4. The Administrative Procedures Act repeats the same language as that of the Federal Register Act. 5 U.S.C. §552(a)(1)
36 says the following of the requirement for implementing regulations published in the Federal Register

37 *“Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any*
38 *manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal*
39 *Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of*
40 *persons affected thereby is deemed published in the Federal Register when incorporated by reference therein*
41 *with the approval of the Director of the Federal Register.”*
42 *[5 U.S.C. §552(a)(1)]*

43 5. There are only THREE defined exceptions to the requirement for publication in the Federal Register of all laws that
44 will have “general applicability and legal effect” and therefore which may lawfully prescribe a penalty:

45 5.1. A military or foreign affairs function of the United States. 5 U.S.C. §553(a)(1)

46 5.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. 5
47 U.S.C. §553(a)(2).

48 5.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. 44 U.S.C. §1505(a)(1).

- 1 6. Therefore, the burden of proof imposed upon the Defendant United States in this matter are to satisfy at least ONE of
2 the following two requirements:
3 6.1. To enter evidence into the record proving that the Plaintiff is a member of one of the three specifically exempted
4 groups above.
5 6.2. To produce implementing regulations published in the Federal Register authorizing enforcement against persons
6 in the District of Columbia or the States of the Union who are NOT members of the specifically exempted groups.
7 7. When challenged to satisfy one of the above two requirements, both the Defendant United States and the Court failed
8 their constitutional duty to provide proof of said jurisdiction on the record. See Doc. 38, p. 13, para. 3.B.; Doc. 44,
9 Section 3.1, p. 6 et seq.. The strongest effort put forth by the United States was Doc. 45, but it still did not refute the
10 issues raised in the Reply Brief on this subject, Doc. 56. Yes, the Secretary has the authority, pursuant to 26 U.S.C.
11 §7805(a) to make all needful rules and regulations, but he does not have the authority to waive a constitutional
12 requirement for “reasonable notice” by publication in the Federal Register as applied to those domiciled in states of the
13 Union who are not federal instrumentalities, contractors, employees, or officers. To conclude otherwise would be a
14 violation of due process of law and undermine the Constitution.
15 8. Consequently, Plaintiff holds the Defendant in contempt of the Constitution and all laws passed in furtherance of it for
16 proceeding without jurisdiction, and for engaging in a willful deprivation of rights of the Plaintiff, and for attempting to
17 hold him accountable to obey laws that he never received “reasonable notice” that he would be obligated to obey by
18 proper publication in the Fed.Reg.
19 9. The Court is reminded that all instances of “presumption” which might prejudice constitutionally protected rights may
20 not stand due process requirements against a party protected by the Constitution, such as the Plaintiff:

21 (1) [8:4993] *Conclusive presumptions affecting protected interests:*

22 *A conclusive presumption may be defeated where its application would impair a party's constitutionally-*
23 *protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a*
24 *party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230,*
25 *2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under*
26 *Illinois law that unmarried fathers are unfit violates process]*
27 [[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34](#)]

- 28 10. Both the Court and the Magistrate, when repeatedly confronted with the issues documented within this section were
29 silent. Pursuant to Fed.Rul.Civ.Proc. 8(b)(6), that which is not denied is admitted and forms the basis for laches,
30 equitable estoppel, and retraxit by tacit procuration. A Notice of Default documenting all the things that the Plaintiff
31 and the Court agreed to by their willful omission and silence was served upon the Plaintiff and the Court attached to
32 Docket # _____ as Exhibit 3, which the Plaintiff and the United States AGAIN remained silent on in response to that
33 filing, thus equitably foreclosing any arguments to the contrary in any future proceeding. As fiduciaries of the public
34 trust, Plaintiff finds their wanton conduct shocking, prejudicial to his Constitutional rights, injurious to public health
35 and morals, violative of their oaths of public office, and simply inexcusable. Hence this appeal.

36 *“Fraud in its elementary common law sense of deceit -- and this is one of the meanings that fraud bears [483*
37 *U.S. 372] in the statute, see United States v. Dial, 757 F.2d. 163, 168 (7th Cir.1985) -- includes the deliberate*
38 *concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward*
39 *the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately*
40 *conceals material information from them, he is guilty of fraud. When a judge is busily soliciting loans from*
41 *counsel to one party, and not telling the opposing counsel (let alone the public), he is concealing material*
42 *information in violation of his fiduciary obligations.”*
43 [[McNally v. United States, 483 U.S. 350 \(1987\)](#)]

44
45 *“Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left*
46 *unanswered would be intentionally misleading.”*
47 [[U.S. v. Prudden, 424 F.2d. 1021 \(5th Cir. 1970\)](#)]

48
49 *“Silence can be equated with fraud where there is a legal or moral duty to speak, or where an inquiry left*
50 *unanswered would be intentionally misleading. . . We cannot condone this shocking behavior by the IRS. Our*
51 *revenue system is based on the good faith of the taxpayer and the taxpayers should be able to expect the same*
52 *from the government in its enforcement and collection activities.”*
53 [[U.S. v. Tweel, 550 F.2d. 297, 299 \(5th Cir. 1977\)](#)]

- 1 11. Plaintiff reminds the Court that this injunction proceeding is an equitable proceeding in which the United States as
2 moving party MUST maintain “clean hands”. The United States cannot be said to have proceeded with “clean hands”
3 based on its willful silence and omission on these critical issues and consequently, Court’s ruling should not be allowed
4 to withstand this appeal.
- 5 12. Therefore, the questions to be addressed by the Court in the context of this issue are:
- 6 12.1. Do implementing enforcement regulations exist for the statutes cited as authority by the Plaintiff?
- 7 12.2. Is the Plaintiff a member of any of the groups *specifically exempted* from the requirement for implementing
8 regulations published in the Federal Register as required by 44 U.S.C. §1508(a), 44 U.S.C. §1505(a), and 5
9 U.S.C. §553(a)?
- 10 12.3. If the answer to the previous two questions is NO, then by what authority does this court enforce the provisions
11 sought to be enforced by the government?

12 [TITLE 5 > PART 1 > CHAPTER 5 > SUBCHAPTER II > § 552](#)
13 [§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in](#)
14 [Federal Register as notice of hearing](#)

15 *Except to the extent that a person has actual and timely notice of the terms thereof, **a person may not in any***
16 ***manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal***
17 ***Register and not so published.** For the purpose of this paragraph, matter reasonably available to the class of*
18 *persons affected thereby is deemed published in the Federal Register when incorporated by reference therein*
19 *with the approval of the Director of the Federal Register.*
20

21 [26 CFR §601.702](#) Publication and public inspection

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

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

- 29 12.4. Should the Court dismiss this case for want of enforcement jurisdiction? If not, WHY not?
- 30 12.5. Would due process be violated when these issues were properly described and presented to the Court and the
31 Court remains silent and refuses to address them?
- 32 12.6. Does an equitable estoppel apply against the Plaintiff on these issues pursuant to F.R.Civ.P. 8(b)(6), since they
33 deserted the battlefield and abused their public trust through omission to injure the rights of the Plaintiff by
34 refusing to deal with these issues?

35 **11 Rebutted Objections by the Government to The Content of this Document**

36 **11.1 IRS Frivolous Positions, Notice #2008-14**

37 IRS publishes the following document to notice the public of positions that it considers “frivolous” and which may subject
38 those “taxpayers” who employ them in tax returns or IRS Collection Due Process meetings to a \$5,000 penalty:

39 [IRS Frivolous Positions, Notice #2008-14](#)
40 <http://famguardian.org/Subjects/Taxes/FalseRhetoric/n-08-14.pdf>

41 On p. 4 of the above document, the following paragraph appears:

42 *DISCUSSION*

43 *Frivolous Positions. Positions that are the same as or similar to the following are frivolous:*

44 (2) *The Internal Revenue Code is not law (or “positive law”) or its provisions are ineffective or inoperative,*
45 *including the sections imposing an income tax or requiring the filing of tax returns, because the provisions have*
46 *not been implemented by regulations even though the provisions in question either (a) do not expressly require*

1 the Secretary to issue implementing regulations to become effective or (b) expressly require implementing
2 regulations which have been issued.
3 [IRS Frivolous Positions, Notice #2008-14]

4 The above allegedly “frivolous” position doesn’t directly address the content of this pamphlet because:

- 5 1. We don’t argue that the Internal Revenue Code is “ineffective or inoperative” anywhere in this pamphlet. Instead, we
6 believe that it is effective and operative against those who are “taxpayers”, which we define as persons engaged in the
7 “trade or business” franchise as “public officers” within the United States government. See:

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

- 8 2. The provisions within the I.R.C. at 26 U.S.C. §6012 for filing of returns do in fact have implementing regulations
9 under Part 1. There is in fact a regulatory requirement to file “returns” for “persons” who are “taxpayers” at 26 CFR
10 §1.6012-1. We believe it is foolish to argue that there is no requirement to file tax returns for “taxpayers” with
11 “income”. See:

Legal Requirement to File Federal Income Tax Returns, Form #05.009
<http://sedm.org/Forms/FormIndex.htm>

- 12 3. We readily acknowledged earlier in this memorandum that there are provisions within the I.R.C. that *do not* have
13 implementing regulations and are *not required* to have implementing regulations to be enforceable. We also proved
14 that all such provisions apply ONLY to the groups expressly and specifically exempted from the requirement for
15 implementing enforcement regulations.

16 Instead, the real question left deliberately un-asked and un-answered in the above is:

17 “Against *whom* may statutes within the I.R.C. be enforced in the event that there are no implementing
18 regulations?”

19 Neither the I.R.S. nor the Dept. of Justice nor the federal courts want to directly deal with this question, because they would
20 have to admit that the answer is the following, which is the list of three groups expressly exempted from the publication in
21 the Federal Register of implementing regulations as identified by the Administrative Procedures Act, 5 U.S.C. §553 and the
22 Federal Register Act (44 U.S.C. §1505(a)(1)). To wit, these three groups are:

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

27 Answering the above question would also then beg yet another important question, which is:

28 “Provide evidence that I, the Defendant or litigant, consensually and lawfully satisfy one of the three criteria
29 for becoming the target of government enforcement absent enforcement regulations.”

30 The government can’t answer this question so typically, they very deliberately won’t even go there because they would get
31 their BUTT kicked regularly in litigation if they did. The truth of this proposition was proven by one of our members, who
32 used the arguments in this pamphlet in appealing all the way up to the Ninth Circuit Court of Appeals, Case No. 06-56011
33 ruled on in 2008. The response was as follows:

- 34 1. The Ninth Circuit Court made the case unpublished to hide the truth of their limited jurisdiction.
35 2. Both the court and the U.S. Attorney positively refused throughout the appeal to deal directly with the issue, because
36 they knew our member was absolutely correct.
37 3. The member served them with a Writ of Error and a Notice of Default.

38 Quite a scam, huh?

39 **11.2 Tax Injunction Case**

40 The interchange below is between the Defendant, who is one of our members, and a U.S. Attorney, who is the Plaintiff.
41 The U.S. Attorney is responding to a Petition to Dismiss based upon the content of the preceding section. The interchange

addresses the main theme of this pamphlet and shows you how the government defends against it. You may also want to include these arguments IN ADVANCE if you use the methods of challenging jurisdiction in the previous section. Everything that the U.S. Attorney says is accurate and completely consistent with our analysis in this document. The main errors in his logic are:

1. He did not consider the circumstances of the litigant as a “nontaxpayer”.
2. He cited case law that was irrelevant to the circumstances of the litigant. The case he cited did not exactly replicated the Defendant he was applying it against.
3. He violated the IRS’ own policy in citing cases below the U.S. Supreme Court. The IRS isn’t allowed to cite cases below the U.S. Supreme Court and apply them to the immediate case at hand, and so neither is the U.S. Attorney.

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.

The reason for the above is that there is no federal common law within a state of the Union. This is covered in the following document:

Federal Jurisdiction, Form #05.018
<http://sedm.org/Forms/FormIndex.htm>

4. He did not directly explain WHY the litigant did in fact satisfy one of the three specific exceptions to the requirement for implementing regulations, which he would have to do because the statutes he used as authority did not have implementing regulations published in the Federal Register.
5. He prejudicially and illegally “presumed” that the Defendant was a “Taxpayer” subject to the I.R.C., which he has no delegated authority to do if you declare otherwise.

*Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. § 7701(a)(14)." (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the instant action. See 28 U.S.C. §2201; see also Hughes v. United States, 953 F.2d. 531, 536-537 (9th Cir. 1991) (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.***
[Rowen v. U.S., 05-3766MMC, (N.D.Cal. 11/02/2005)]

(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 US 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]

Argument:

1 Defendant's seemingly new argument is that the sections of the Internal Revenue Code ("IRC") on which the government
2 relies in this case-§§ 6700,6701,7402 and 7408-are not supported by implementing regulations and are thus ineffective.
3 Defendant's argument (which has been made by others in the tax protest community) is without merit. The Treasury
4 Secretary has broad authority to "prescribe all needful rules and regulations for the enforcement of [the IRC], including all
5 rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue" under 26 U.S.C.
6 §7805(a) (emphasis added); see *Granse v. United States*, 892 F.Supp. 219, 224 (D.Minn. 1995). This statute "does not
7 require the promulgation of regulations as a prerequisite to the enforcement of each and every provision of the [IRC]." *Id.*;
8 see *Watts v. Internal Revenue Service*, 925 F.Supp. 271,277 (D.N.J. 1996) (holding that the IRC "has the force of law
9 which Congress gave it, with or without implementing regulations").

10 An implementing regulation is not necessary if the Congressional mandate of the IRC provision is clear. *Granse*, 892
11 F.Supp. at 225 (citations omitted). IRC §7408 authorizes action: to enjoin persons from engaging in the conduct specified
12 in IRC §§6700 and 6701. Those latter statutes impose penalties on persons who engage in the conduct set forth in the
13 statutes (5 6700-promoting abusive tax shelters; §6701-aiding in the understatement of tax liability). IRC §7402(a)
14 authorizes district courts to issue injunctions "as may be necessary or appropriate for the enforcement of the internal
15 revenue laws." These laws were enacted to give the IRS more effective tools to deal with "the growing phenomenon of
16 abusive tax shelters." S. Rep. No. 97-494, at 266 (1982), reprinted in 1982 U.S.C.C.A.N. 781, 1014. The statutes are clear
17 and express Congress's desire for capable tax law enforcement. Defendant has failed to show that the IRC statutes relevant
18 to this action are so ambiguous or unclear as to require the promulgation of implementing regulations.

19 **Rebuttal:**

20 The only argument raised by the Plaintiff is that implementing regulations are not necessary where the Congressional
21 Mandate of the IRC provision is clear, *Granse v. United States*, 892 F.Supp. 219, 224 (D.Minn. 1995). That case is entirely
22 inapposite and irrelevant to the circumstances of the Alleged Defendant for the reasons described below:

23 1. Granse consented to be a "taxpayer": The case cited by the Plaintiff pertains to a "taxpayer" who is subject to the
24 I.R.C. and therefore a "public officer" engaged in the "trade or business" franchise described in 26 U.S.C.
25 §7701(a)(26) . This must be the case because those not so engaged are described as a "foreign estate" in 26 U.S.C.
26 §7701(a)(31) and not subject to the I.R.C. Karl G. Granse was identified by the Court as a "taxpayer", which is
27 defined in 26 U.S.C. §7701(a)(14) as "any person subject to any internal revenue tax". Karl Granse is not described in
28 the ruling as disputing that label of "taxpayer" used by the Court to describe him. Consequently, he was bound to obey
29 the I.R.C. for all earnings he had that were "effectively connected with a trade or business" and which were subject to
30 the I.R.C. because they involved a "public purpose".

31 *"The issues before the Court are limited to the two matters described in section 7429(g) of the Code: The*
32 *reasonableness of the decision to make the jeopardy assessment and the reasonableness of the amount of the*
33 *assessment. The Government bears the burden of proof with respect to the former issue, 26 U.S.C. § 7429(g)(1);*
34 *the taxpayer bears the burden of proof with respect to the latter issue, 26 U.S.C. § 7429(g)(2); e.g., Central de*
35 *Gas de Chihuahua, S.A., v. United States, 790 F.Supp. 1302 (W.D. Tex. 1992). The Court's review under section*
36 *7429 is de novo; the Court is not limited to the information available to the IRS at the time the assessment was*
37 *made, but can also consider any information which subsequently becomes available. Kerness v. United States,*
38 *Civ. No. 5-81-22, 1981 WL 1813, at * 2 (D.Minn. June 26, 1981) (report and recommendation), adopted by*
39 *1981 WL 1959 (D.Minn. Jun 24, 1981); Abercrombie v. United States, 46 A.F.T.R.2d (P-H) P 80-5274, at 80-*
40 *5891 (D.S.C. Sept. 3, 1980). Given the summary nature of the proceedings, the Court cannot concern itself with*
41 *a determination of the taxpayer's actual tax liability. Friko Corp. v. Commissioner of Internal Revenue, 26 F.3d*
42 *1139, 1141 (D.C. Cir. 1994) (citing Lindholm v. United States, 808 F.Supp. 1, 2 (D.D.C. 1992)); Kerness, 1981*
43 *WL 1813, at * 1."*
44 [*Granse v. United States, 892 F.Supp. 219, 224 (D.Minn. 1995)*]

45 Why Irrelevant to Alleged Defendant: Alleged Defendant instead has consistently identified himself in the Answer and
46 all subsequent pleadings as a "nontaxpayer", and not a "taxpayer" under 26 U.S.C. §7701(a)(14), who is therefore not
47 subject to any provision within the I.R.C. He has rebutted every use of a Taxpayer Identification Number, which can
48 only be used by "aliens" and he is not an "alien. See 26 CFR §1.1-1(a)(2)(ii), which identifies a "married" and
49 "unmarried individual" as an alien engaged in a "trade or business". See Answer, Affidavit of Matl. Facts, p. 10, para.
50 4.A. Furthermore, the Plaintiff has failed to rebut this assertion with competent evidence. Plaintiff's obvious failure
51 means that he agrees that the Alleged Defendant is a "nontaxpayer" not subject to the I.R.C. The Federal Courts agree
52 that "nontaxpayers" are not subject to the I.R.C. To wit:

1 *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers,*
2 *and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and*
3 *no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not*
4 *assume to deal, and they are neither of the subject nor of the object of the revenue laws..."*
5 *[Long v. Rasmussen, 281 F. 236 (1922)]*

6 *"Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are without their scope. No*
7 *procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies*
8 *in due course of law. With them Congress does not assume to deal and they are neither of the subject nor of the*
9 *object of federal revenue laws."*
10 *[Economy Plumbing & Heating v. U.S., 470 F2d. 585 (1972)]*

- 11 2. Granse cited provisions within the I.R.C. that were only available to "taxpayers": Karl Granse also cited provisions
12 from the I.R.C. as the authority for his suit. Namely, he cited 26 U.S.C. §7429(b). That provision contains remedies
13 which are only available to "taxpayers". It says that right in the statute itself:

14 TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter B > § 7429
15 § 7429. Review of jeopardy levy or assessment procedures

16 (2) Request for review

17 *Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph*
18 *(1), or within 30 days after the last day of the period within which such statement is required to be furnished,*
19 *the taxpayer may request the Secretary to review the action taken.*

20 Only "taxpayers" who are subject to the I.R.C. may cite the above provision or any other provision of the I.R.C. The
21 U.S. Supreme Court has agreed with this conclusion, when it ruled on this subject:

22 *"The Government urges that the Power Company is estopped to question the validity of the Act creating the*
23 *Tennessee Valley Authority, and hence that the stockholders, suing in the right of the corporation, cannot [297*
24 *U.S. 323] maintain this suit. The principle is invoked that one who accepts the benefit of a statute cannot*
25 *be heard to question its constitutionality. Great Falls Manufacturing Co. v. Attorney General, 124 U.S. 581;*
26 *Wall v. Parrot Silver & Copper Co., 244 U.S. 407; St. Louis Casting Co. v. Prendergast Construction Co.,*
27 *260 U.S. 469."*
28 *[Ashwander v. Tennessee Valley Auth., 297 U.S. 288 (1936)]*

29 Why Irrelevant to Alleged Defendant: Alleged Defendant, on the other hand, has *never* availed himself of any
30 "privilege", benefit, or deduction arising from any provision of the I.R.C. during the period in question and has instead
31 used inter alia, the Constitution, his rights, and prior U.S. Supreme Court decisions, and positive law as the only basis
32 for his defense. He relies only on the constitution and state law. He can't cite federal civil law that only pertains to
33 federal territory in his defense without creating a false presumption that he is either domiciled on federal territory or
34 engaged in federal franchises.

- 35 3. Granse satisfied F.R.Civ.P. 17(b)(2) and was acting in a representative capacity as a "public officer" within the United
36 States Federal Corporation: Karl Granse was the person who initiated the suit in question. He could only have
37 initiated the suit by satisfying Fed.Rule.Civ.Proc. Rule 17(b), which requires that he either have a domicile on federal
38 territory (which excludes states of the Union, and which are foreign states for the purposes of federal legislative
39 jurisdiction), or that he is exercising agency, contracts, or employment on behalf of a corporation which has a domicile
40 inside a federal enclave or U.S. territory. In Granse's case, he could only have been exercising the latter, which is
41 agency of a federal corporation, because he was identified in the ruling as maintaining a domicile in Michigan rather
42 than the District of Columbia, as identified in 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(d). Therefore, Granse
43 could only have initiated the suit pursuant to F.R.Civ.P. 17(b)(2) as an employee, officer, agent, or fiduciary of the
44 federal corporation known as the "United States" and which is defined in 28 U.S.C. §3002(15)(A) as "a federal
45 corporation". This is consistent with his also being engaged in a "trade or business" by virtue of having the Currency
46 Transaction Report filed against him by the bank that maintained the account which the IRS attempted to seize. A
47 "trade or business" is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26), and all public offices
48 must by law maintain a domicile in the District of Columbia under 4 U.S.C. §72 and under Article 1, Section 8, Clause
49 17 of the Constitution.

50 Why Irrelevant to Alleged Defendant: The circumstances of the Alleged Defendant, however, are entirely different.
51 His Answer identified his domicile as no place inside the federal "United States" (see 26 U.S.C. §7701(a)(9) and
52 (a)(10)) and the Affidavit of Material Facts indicated that he was not exercising any federal contracts or agency. See
53 Aff. Of Matl. Facts, starting on p. 5, and in particular, paragraph 6 on p. 16. In that portion of the Answer, Alleged
54

Defendant also indicated that he is not engaged in a “trade or business” and he asserted the fact that he is a “nontaxpayer” not subject to the I.R.C. Plaintiff never rebutted this and therefore agrees with it. Therefore, the *Granse* case is entirely off point and consequently is inapplicable in the instant Matter. Thus, the circumstances, facts, and ruling in *Granse* are wholly irrelevant and have no bearing or relationship to the circumstances of the Alleged Defendant.

4. Unrebutted Currency Transaction Reports Connected *Granse* to the “trade or business” excise taxable franchise: The behavior that made Karl *Granse* subject to the I.R.C. as a “taxpayer” was the Currency Transaction Report (CTR), Form 8300, which connected his deposits at the bank with a taxable activity called a “trade or business”. *Granse* apparently failed to dispute or correct this report. Therefore, by his own ignorance and omission, Karl *Granse* was a presumed to be a “taxpayer” who, unlike the Alleged Defendant, was subject to the Internal Revenue Code. It is important to point out the undisputed, conclusive fact that receipt of currency no in the course of a trade or business is NOT reportable under 31 U.S.C. §5331. The proof of this fact is contained in the Code of Federal Regulations, to wit:

[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.
[Emphasis added]

Therefore, Karl *Granse*, based on the CTR Form 8300 that was filed against him and which he apparently never disputed according to the Court, was engaged in a privileged, excise taxable activity called a “trade or business” and he thus was a “taxpayer”. You will note, for instance, that 26 CFR §1.1-1(a)(2)(ii) identifies “trade or business” income as taxable “gross income”.

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

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

For further details, see also

[The “Trade or Business” Scam, Form #05.001](#)
<http://sedm.org/Forms/FormIndex.htm>

which thoroughly analyzes exactly what the I.R.C. Subtitle A imposes a tax upon, which is “trade or business” activity.

Why Irrelevant to Alleged Defendant: Mr. *Granse*’s circumstance, however, is *not* the case with the Alleged Defendant. Alleged Defendant has vigorously rebutted and sent in correction forms for all evidence which might wrongfully and illegally associate him with such taxable activities, such as:

- 4.1. Erroneous 1099 forms.
- 4.2. Erroneous W-2 forms.
- 4.3. Erroneous Currency Transaction Reports, Form 8300.
- 4.4. Erroneously or unlawfully filed or executed Substitute for Returns.

He has proved why they are correct in his administrative record and such correspondence has never been rebutted by the Plaintiff and therefore is admitted pursuant to F.R.Civ.P. 8(b)(6).

5. Opened Bank Account as a “U.S. person”: Karl *Granse*, by his omission, also created a prima facie presumption that he is a domiciliary of the federal “United States” in the process of opening the bank account which connected him to a “trade or business”. He did not provide to the bank IRS Form W-8, but instead provided a Social Security Number in its place when he opened the account. Those who do not provide W-8BEN forms are considered to be “U.S. persons” subject to the I.R.C.. A “U.S. person” is defined in 26 U.S.C. §7701(a)(30) as either a “U.S. citizen” or a “resident”, both of whom have in common a legal “domicile” in the federal “United States”, which is defined in 26 U.S.C.

1 §7701(a)(9) and (a)(10) as only the District of Columbia and whose definition is not expanded anywhere else in I.R.C.
2 Subtitle A to include any other place. Therefore, the definition does not include any of the 50 Union states united
3 under the federal Constitution.

4 *“Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one*
5 *thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,*
6 *170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. When certain persons*
7 *or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be*
8 *inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects*
9 *of a certain provision, other exceptions or effects are excluded.”*
10 *[Black’s Law Dictionary, Sixth Edition, p. 581]*

11 Consequently, Carl Granse’s behavior in opening the bank account which was the subject of the suit created the
12 rebuttable presumption that he was a “U.S. person” subject to the I.R.C. as a “taxpayer”, who was engaged in a “trade
13 or business” because of the CTR filed against him, and who maintained a domicile in the District of Columbia as
14 required under 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(c).

15
16 Why Irrelevant to Alleged Defendant: By contrast, the Alleged Defendant: (1) Has accurately reflected his status as a
17 “nonresident alien” for all financial accounts that he maintains; (2) When asked to file “returns”, has submitted the
18 correct form, the IRS Form 1040NR, and indicated no liability on said form. Therefore, there is no evidence in the
19 Record of the instant matter, or in the possession of the Plaintiff which would create a false and incorrect presumption
20 that the Alleged Defendant is a “U.S. person” subject to federal jurisdiction or to this Court, or who is engaged in the
21 privileged activity known as a “trade or business” which would make him a “taxpayer” subject to the I.R.C.. The
22 foregoing facts mean that the Alleged Defendant’s situation and circumstances are entirely different from the facts in
23 *Granse*. Alleged Defendant is a “nontaxpayer” and Granse is a “taxpayer. It is a fact that the Alleged Defendant is not
24 a “U.S. person” and that Granse, through his actions and his own behavior in opening the bank account, created the
25 rebuttable presumption that he, Granse, was a “U.S. person”. Therefore, the Granse case is off point and irrelevant to
26 the instant Matter. The Plaintiff’s disingenuous reliance upon Granse exposes the Plaintiff’s faulty legal reasoning and
27 the Court should not place any credence or reliability in the Plaintiff’s Opposition Motion.

28 6. Currency Transaction Reports Applied: The excise taxable franchise activity, a “trade or business”, which Karl Granse
29 was engaged in as documented by the Currency Transaction Report, Treasury Form 8300, filed against him, is defined
30 in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. That “public office” is in the United States government
31 and that office is identified by the U.S. Supreme Court essentially as a business partnership with the U.S. Government.
32 See *Osborn v. Bank of U.S.*, 22 U.S. 738 (1824). Subtitle A of the I.R.C. therefore almost exclusively governs the
33 relationship between U.S. government and those pursuing federal employment, contracts, agency, or benefits, and
34 which regulates the private/contractual business partnership and relationship called a “trade or business”. Consent to
35 abide by the contract and therefore to be called a “taxpayer” is conveyed by signing and submitting under penalty of
36 perjury the IRS Form W-4, IRS Form 1099, IRS Form 1040, and the Currency Transaction Reports (CTRs), all of
37 which if left un rebutted produce evidence of consent to the contract. Since Karl Granse did not argue against his
38 alleged status as a “taxpayer”, which is a person engaged in a privileged type of federal employment called a “trade or
39 business” as defined in 26 U.S.C. §7701(a)(26), and since he clearly did not rebut the erroneous evidence wrongfully
40 and incorrectly linking him to that relationship, then both the Court in his case, and the Alleged Defendant agree that
41 he should obey the contract terms found in Subtitle A of the I.R.C.

42
43 Why Irrelevant to Alleged Defendant: This in no way is the case, however, with the Alleged Defendant, who has
44 rebutted all erroneous reports that might connect him to “trade or business” activity, has rescinded participation in
45 Social Security, has vociferously argued against any identification of him as being a “taxpayer”, and vociferously
46 refused any federal entitlement or benefit.

47 7. Defendant was a “public officer” engaged in the “trade or business” franchise covered by 5 U.S.C. §553(a)(2):
48 Because Karl Granse was engaged in the “trade or business” franchise, then under 26 U.S.C. §7701(a)(26), he was
49 engaged in a “public office”. A public office is a type of federal employment or agency which is: (1) Created by
50 contract or agreement or other type of individual consent; (2) Requires consent of parties to the agreement in some
51 form; (3) Is implemented through private law, which applies to special persons and things known as public employees
52 or contractors. Because a “public office” is a type of federal agency, then those who are party to the private law
53 contract found in I.R.C. Subtitle A become federal agents or contractors or “employees” who are explicitly exempted
54 by the Federal Register Act, 44 U.S.C. §1505(a)(1), from the requirement for implementing regulations.

55 [TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 553](#)
56 [§ 553. Rule making](#)

1 (a) This section applies, according to the provisions thereof, except to the extent that there is involved—

2 (1) a military or foreign affairs function of the United States; or

3 (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or
4 contracts.

5 Note the above exclusion of the requirement for publication of implementing regulations: “a matter relating to
6 agency management or personnel. . .or contracts”. A “public office” or the “trade or business” franchise activity that
7 creates federal agency on the part of the person engaged in the activity are examples of situations that would certainly
8 not require implementing regulations and which would certainly be subject to regulation by direct Congressional
9 statutory enactment. Congress has always had direct control over its agents and employees in the Executive Branch
10 and it would be ludicrous for any Court or litigant to attempt to interfere with that direct supervisory role by requiring
11 effectively that the Executive Branch, which is its subordinate Servant of the Legislative Branch, must write a
12 regulation interpreting a direct command from its Master, before that command may be enforced by the Judicial
13 Branch. However, that same relationship does not apply to the Sovereigns in the states of the Union, who all three
14 branches of government were created to serve and protect. As repeatedly pointed out in the Petition to Dismiss, the
15 requirement for implementing regulations applies to every subject of Congressional legislation EXCEPT those
16 exceptions explicitly spelled out in the Federal Register Act, 44 U.S.C. §1505(a)(1), and the Administrative Procedures
17 Act, 5 U.S.C. §553(a). The reason for this is clear: Congress, which is the servant of the Sovereign People, was
18 established exclusively to protect the Constitutional and natural rights of its Master, We The People. It demonstrates
19 this commitment to “protection” of Constitutional Rights by a writing and publishing implementing regulations in the
20 Federal Register, which satisfies the Constitutional requirement for “due notice” to the persons affected by any law or
21 regulation. Only persons domiciled in states of the Union who are not a party to any federal contract, employment, or
22 agency, can have such Constitutional rights in relation to the national government. Federal employees, agents,
23 contractors, and the military DO NOT have such rights and therefore need not be part of the “notice and comment”
24 process that is inherent in the rulemaking process so as to protect rights. The Supreme Court confirmed that public
25 employees have no constitutional rights in relation to their employer, the federal government, when it said the
26 following:

27 “The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the
28 regulator of private conduct, are not the same as the restrictions that it places upon the government in its
29 capacity as employer. We have recognized this in many contexts, with respect to many different constitutional
30 guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v.
31 Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable
32 cause, but in many circumstances government employees can. O’Connor v. Ortega, 480 U.S. 709, 723 (1987)
33 (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for
34 refusing to provide the government information that may incriminate them, but government employees can be
35 dismissed when the incriminating information that they refuse to provide relates to the performance of their job.
36 Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in
37 particular: Private citizens cannot be punished for speech of merely private concern, but government employees
38 can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished
39 for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that
40 reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm’n v. Letter Carriers, 413 U.S.
41 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973).”
42 [Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]

43 There is no question in the mind of the Alleged Defendant that the Court ruled correctly in the case of *Granse*, by
44 discounting the requirement for implementing regulations for Mr. Granse, who by his own omission and admission,
45 was engaged in a privileged “public office” (“trade or business”) which created a type of federal “agency” and
46 fiduciary relationship under 26 U.S.C. §6903 that made him liable to obey Subtitle A of the I.R.C. This is simply not
47 the case with the Alleged Defendant, once again, who was not engaged in the “trade or business” excise taxable
48 franchise or any other type of federal employment or agency in the context of the disputed matters at any time during
49 the period in question and who has overwhelming evidence to support such a conclusion, which is also reflected in his
50 sworn Answer. You will also note that the definition of “person” under the penalty provisions of the I.R.C. also
51 confirms that the only “persons” liable for penalties, including injunctive relief under 26 U.S.C. §6700 and 6701, have
52 a fiduciary relationship with the federal government created by the receipt of federal office, benefits, employment,
53 contracts, or the exercise of other forms of “private law” based on personal consent. To wit:

54 TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671
55 § 6671. Rules for application of assessable penalties

1 (b) Person defined

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

6 The "duty" which they are referring to above in the emphasized passage is the fiduciary duty created under 26 U.S.C.
7 §6903 by declaring oneself a "public officer" engaged in a privileged "trade or business". Private law and private
8 contract is the only way to create such a fiduciary relationship, and the Plaintiff at no time has ever produced any
9 substantive evidence documenting the existence of such a relationship in the case of the Alleged Defendant. Positive
10 law CANNOT create such a fiduciary relationship because it would impinge on the Constitutional Rights of the
11 sovereigns in the states of the Union, which Congress may not lawfully do. That is why 1 U.S.C. §204 identifies the
12 Internal Revenue Code as not being "positive law" and only "prima facie evidence", meaning simply a presumption
13 that is not admissible as evidence. It is instead "private law" and "special law" that only applies to specific persons and
14 things who individually consent to be bound by it. This was admitted by the IRS itself in the following document:

15 SEDM Exhibit #09.023
16 <http://sedm.org/Exhibits/EX1000.pdf>

17 Once a party consents or even acts as though he consents, he or she is considered to be "effectively connected with a
18 trade or business in the United States". In effect, the act of consent "marries" a person through private law to the state
19 and makes them a "public officer". That marriage proposal begins by selecting a "domicile" within the state and the
20 marriage is consummated by the act of engaging in the privileged or excise taxable "trade or business". Real marriage
21 works the same way: Parties who "act" as though they are married and cohabit for some fixed period of time are
22 treated under the common law in many states as though they are legally married.

23 Why Irrelevant to Alleged Defendant: Alleged Defendant has consistently described himself as a "nonresident alien"
24 who is NOT an "individual". The right to have that status is a fulfillment of the right to free association protected by
25 the First Amendment. I have a protected right NOT to associate with any aspect of the government through private law
26 or contracts, and when properly invoke that right, I preserve my right not to be described as ANYTHING identified in
27 the civil or private law of the government. To suggest otherwise is to compel association in violation of the First
28 Amendment and to interfere with my right NOT to contract. Therefore, Alleged Defendant is not neither a "U.S.
29 person" with a domicile on federal territory nor an "individual", nor ANYTHING suggested in any federal civil statute.
30 The Granse case and all cases in which the litigant was a "taxpayer", a "U.S. person", or was engaged in a privileged
31 activity such as a "trade or business" are simply irrelevant and inapplicable to the circumstances of the Alleged
32 Defendant and this case.

33 Granse' approach was seriously flawed. He could have exonerated himself with the following approach:

- 34 1. He did not consider BOTH elements of the enforcement authority equation. He was right that they needed
35 implementing regulations in most cases, but he didn't consider the existence of the three groups specifically exempted
36 or indicate he was not a member of these groups and challenge the Plaintiff to prove otherwise. That flaw in his
37 logic was fatal. He should have used the approach documented in the previous section, and that would have blown the
38 Plaintiff out of the water.
- 39 2. He should have challenged the Currency Transaction Reports filed against him on Form 8300. These reports connect
40 you to the "trade or business" franchise. See:

41 Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report, Form #04.008
42 <http://sedm.org/Forms/FormIndex.htm>

- 43 3. He didn't understand that I.R.C. Subtitle A is an excise tax on the "trade or business" excise taxable activity and
44 franchise. Because he didn't understand this, then he didn't realize that he had a duty to rebut all the evidence that
45 connected him to the franchise if he wanted to escape the liabilities associated with participation. He should have
46 indicated on the record that he was not lawfully or consensually engaged in either a "public office" or the "trade or
47 business" excise taxable franchise. He should have used the legal criteria for holding a "public office" to show that he
48 didn't satisfy any of the criteria and could not lawfully occupy such an office, and certainly not outside the District of
49 Columbia. See the following form information about how to prove that you are not lawfully engaged in the franchise:

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

4. He should have challenged all false information returns filed against him that connect him with the “trade or business” excise taxable franchise. These include IRS Forms W-2, 1042s-1098, and 1099. See:

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

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

5. He should have indicated that the Plaintiff was engaged in a criminal violation of 18 U.S.C. §912 by compelling him to unlawfully impersonate an officer of the United States during the prosecution and as part of IRS collection.

6. He should never have invoked any provision of the I.R.C. that pertains only to “taxpayers”, because by doing so, he simply confirmed that he was one by taking advantage of the “privileges” and protections of the private law and franchise agreement codified in I.R.C. Subtitle A.

7. He opened his bank account improperly as a “U.S. person” with a domicile on federal territory. He should have opened it with an IRS Form W-8BEN instead to maintain his status as a nonresident alien NON-individual. See:

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

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

8. He didn’t dispute the label of “taxpayer” by the Plaintiff and the Court and therefore allowed himself to be “pigeon-holed” into that status. He should have disputed that status and then invoke the Declaratory Judgments Act, 28 U.S.C. §2201(a) to inform the court that if he declares himself a “nontaxpayer”, then the court can’t change that directly, nor can they do it indirectly using presumptions or citing case law as precedent that only included “taxpayers”.

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

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

For details on how to challenge presumptions that you are a “taxpayer”, see:

[Who are “Taxpayers” and Who Needs a “Taxpayer Identification Number”?](http://sedm.org/Forms/FormIndex.htm), Form #05.013

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

Similar arguments made by Alleged Defendant in this section may also universally be applied to every other type of similar tax case the Plaintiff might wish to cite. This includes, for instance, Gass v. United States Department of Treasury, 216 F.3d 1087, 217 F.3d 1087 (10th Cir. 06/09/2000) and every other case the Alleged Defendant could find on the subject of the requirement for implementing regulations. Therefore, Alleged Defendant was unable to locate any stare decisis useful to this court that would be applicable to or entirely compatible with the circumstances of the Alleged Defendant:

1. Who is a “nontaxpayer” not subject to any provision of the I.R.C.
2. Who is a “nonresident alien” under 26 U.S.C. §7701(b)(1)(B)
3. All of whose earnings and property are a “foreign estate” as defined in 26 U.S.C. §7701(a)(31).
4. Who is nonresident to any United States Judicial District or Internal Revenue District and therefore beyond the jurisdiction of any federal district court.
5. Who did not initiate the lawsuit and has never consented to the foreign jurisdiction of this Court or made a “general appearance”.
6. Who is a “national” under 8 U.S.C. §1101(a)(21), but not a “U.S. citizen” under 8 U.S.C. §1401.
7. Who has no employment or agency or contracts or “public office” relationship with the federal government, nor is a recipient of any federal “benefit”.
8. Who have refuted or rebutted all false report of the receipt of “trade or business” income, such as W-2, 1099, and Currency Transaction Reports.
9. Who was never personally served at the commencement of the action and therefore not subject to the jurisdiction of the court.

In conclusion, case law cited by the Plaintiff is entirely consistent with the criteria described in the Motion for Dismiss for the exercise of federal enforcement powers. Plaintiff has STILL not met the burden of proof with competent evidence that it has enforcement powers against the Defendant in this case. It MUST satisfy one of the following two criteria or immediately terminate this enforcement action:

1. Plaintiff must introduce competent evidence proving that the Plaintiff is a member of one of the three specifically exempted from the requirement for implementing regulations:
 - 1.1. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#) .
 - 1.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5 U.S.C. §553\(a\)\(2\)](#) .
 - 1.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).
2. Plaintiff must produce enforcement implementing regulations published in the Federal Register for all statutes he seeks to enforce. In this case, he seeks to enforce 26 U.S.C. §6700, 6701, 7402, and 7408. Therefore, he must produce the following implementing regulations and proof that they have been published in the Federal Register or else he is in VIOLATION of the Administrative Procedures Act and the Federal Register Act:
 - 2.1. 26 CFR §1.6700.
 - 2.2. 26 CFR §1.6701.
 - 2.3. 26 CFR §1.7402.
 - 2.4. 26 CFR §1.7408.

Therefore, the Court MUST dismiss this action because it is an illegal enforcement and a criminal conspiracy against Constitutionally protected rights to proceed further.

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)
[§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in Federal Register as notice of hearing](#)

*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.

12 Summary and Conclusions

Below is a succinct summary of everything in this pamphlet for the benefit of our readers.

1. The Constitution requires “reasonable notice” and the opportunity to comment be given to all parties against whom a new or proposed law or statute is to be enforced against before it can become binding against them. See:

[Requirement for Reasonable Notice](#), Form #05.022
<http://sedm.org/Forms/FormIndex.htm>
2. All statutes passed by Congress in the Statutes At Large which might confer “enforcement authority” upon the United States government are identified as having “general applicability and legal affect”. See:
 - 2.1. Federal Register Act: [44 U.S.C. §1505\(a\)](#)
 - 2.2. Administrative Procedures Act: [5 U.S.C. §553\(a\)](#).
3. A statute which has “general applicability and legal effect” is a statute which:
 - 3.1. Authorizes any kind of penalty against the general public domiciled in states of the Union.
 - 3.2. Can have any adverse affect upon the Constitutionally protected rights of the audience.
4. The purpose of providing reasonable notice to the public of all laws that could be enforced against them are many:
 - 4.1. It provides an opportunity for comment by the public. This comment is accomplished at the following website <http://regulations.gov>
 - 4.2. It provides an opportunity to ensure that the proposed new or changed regulations which authorize enforcement are clear and concise and not vague and therefore unenforceable. Any law which is “void” and “vague” is unenforceable under a doctrine of the U.S. Supreme Court known as the “void for vagueness” criteria. See:

<http://famguardian.org/TaxFreedom/CitesByTopic/VoidForVagueness.htm>

4.3. It builds an administrative record which the courts can use later on when disputes arise over the meaning of the new regulations, so that the legislative intent can be clearly discerned and correctly applied during the judicial review process.

5. The Federal Register is the *only* approved or lawful method by which persons domiciled in states of the Union are provided with “reasonable notice” of all laws which might be enforced against them. This fact is described in the [Federal Register Act, 44 U.S.C. §1508](#).

6. Failure to provide “reasonable notice” of a new statute to the interested parties constitutes a violation of due process of law and renders the statute unenforceable.

7. Certain very limited groups of persons are specifically exempted from the requirement for publication in the Federal Register of enforcement statutes and regulations. These groups include:

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

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

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

8. All of the above exempted groups are in the Executive Branch of the United States government. The reason why the above groups are specifically exempted is because:

8.1. Congress is the only entity that has the authority to legislate.

8.2. We are a government of laws and not men. *Marbury v. Madison*. Laws are the method by which we control and elect what our servants in government do within the Executive Branch.

8.3. Statutes passed by Congress represent a direct command to their servants in the Executive Branch. If the servant, which is the Executive Branch, had the authority or discretion to decide NOT to write implementing regulations for a statute and thereby interfere with the enforcement of the enactments of Congress, they could gridlock our government indefinitely by simply refusing to write enforcement regulations and thereby refusing to do their job.

9. All statutes for which there are no enforcement regulations published in the Federal Register:

9.1. May only be enforced against members of the specifically exempted groups.

9.2. Apply only to federal government instrumentalities, agencies, contractors, employees, officers, and benefit recipients. In that sense, they can safely be presumed to be “law ONLY for government” and not for the private citizen.

9.3. May not be enforced directly against members of the general public domiciled in states of the Union who are not members of the groups specifically exempted from the requirement for implementing regulations.

10. If someone cites a statute in court against you and does not provide the associated implementing regulation and proof that the statute and the implementing regulation were published in the Federal Register, then:

10.1. They are making a silent presumption that you are an instrumentality of the federal government working in the Executive Branch.

10.2. You must vociferously challenge their silent presumption using this pamphlet in defense of your God-given, natural, and Constitutionally protected rights.

10.3. The method of challenging the false presumption is to:

10.3.1. Present the admissions at the end of this pamphlet, give them a fixed time limit, and tell them that their answer if they fail to rebut is “Admit” to each question.

10.3.2. Ask them for either proof that you are in one of the specifically exempted groups or proof of publication in the Federal Register of BOTH the statute AND the implementing regulation they seek to enforce. If they cannot produce an implementing regulation or they cannot produce proof of publication in the Federal Register, then the only conclusion remaining is that they are assuming you are a member of one of the groups specifically exempted from the requirement for regulations, all of whom are federal instrumentalities, agents, and officers in the Executive Branch of the United States Government, which is a false presumption in most cases.

10.3.3. Use the content of the following free memorandum of law on our website:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017

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

11. The primary “finding aid” used by the federal government for locating whether a statute has implementing regulations and where the implementing regulations are found can be located in what is called the CFR Parallel Table of Authorities, which you can view at the link below:

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

12. The CFR Parallel Table of Authorities does NOT constitute legally admissible evidence in court of the ABSENCE of implementing regulations. Instead, it is simply what is called a “finding aid” and nothing more. For the reasons why, see section 6.23 of the document below:

13. When raising issues in this pamphlet against a government opponent, the government will try to avoid providing proof of jurisdiction required by making this issue look like something the courts have discredited. Don't allow them to do it and stay on point! Here is how they will do it:

13.1. They will say:

"Defendant essentially is stating that the federal government only has jurisdiction over the territories, possessions, and the District of Columbia. This is frivolous and the courts have repeatedly ruled against this."

13.2. In response, say:

"Plaintiff United States is mis-stating my argument in order to evade addressing the question presented and direct attention away from the question as a red herring. I am NOT saying the United States only has jurisdiction over the federal zone. It enjoys jurisdiction over all its domiciliaries, officers, and franchisees wherever situated. For instance, [26 U.S.C. §911](#) imposes a tax upon statutory but not constitutional "U.S. citizens" defined in [8 U.S.C. §1401](#) and statutory but not constitutional "residents" as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) when abroad and in a foreign country. The U.S. Supreme Court has affirmed in *Cook v. Tait*, 265 U.S. 47 (1924), that such an imposition is a valid exercise of federal power and that the reason it is valid is because the Constitution does not protect people abroad. I am NOT, however, a statutory "U.S. citizen" pursuant to 8 U.S.C. §1401 and it is therefore an unlawful exercise of jurisdiction by this court to assert that I am or to cite any federal statute against a person **not** domiciled within exclusive federal jurisdiction and not engaged in any federal franchise that might cause a waiver of constitutional rights to life, liberty, or property:

"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states. **No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress.** It had been the occasion of much discussion in the courts, by the executive departments and in the public journals. **It had been said by eminent judges that no man was a citizen of the United States[***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories, though within the United States[***], were not citizens.** Whether this proposition was sound or not had never been judicially decided."
[*Slaughter-House Cases*, 83 U.S. (16 Wall.) 36; 21 L.Ed. 395 (1873)]

For further proof that the federal government DOES enjoy jurisdiction over those domiciled within the federal zone, see:

The real issue is what statute gives the government jurisdiction on land within a state of the Union that is not part of a federal area and which they have no jurisdiction over pursuant to [40 U.S.C. §3112](#)? This pamphlet establishes that no jurisdiction within a state of the Union can exist without proof on the record of one of the following two things:

1. Proof of publication in the Federal Register of the statute AND the implementing regulations sought to be enforced. OR. . .
2. Proof that the Plaintiff is a member of one of the groups specifically exempted from the requirement for publication.

Absent said proof, any attempt by the Plaintiff to cite federal statutory law against a private person without proof of publication in the Federal Register constitutes a silent and unconstitutional and prejudicial presumption that I am a federal instrumentality, agency, or officer within the Executive Branch of the government. I WILL NOT consent or stipulate to such a presumption and I demand that evidence be presented on the record which supports it. That presumption is hereby forcefully challenged because:

1. A presumption is neither evidence nor a substitute for evidence.

"A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence."
[*Black's Law Dictionary*, Sixth Edition, p. 1185]

- 1
2 2. All presumptions which prejudice constitutionally guaranteed rights are unconstitutional and a violation of due process of law.

3 (1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive
4 presumption may be defeated where its application would impair a party's
5 constitutionally-protected liberty or property interests. In such cases, conclusive
6 presumptions have been held to violate a party's due process and equal protection
7 rights. [Vlandis v. Kline (1973) [412 U.S. 441](#), 449, 93 S.Ct. 2230, 2235; Cleveland Bd.
8 of Ed. v. LaFleur (1974) [414 U.S. 632](#), 639-640, 94 S.Ct. 1208, 1215-presumption under
9 Illinois law that unmarried fathers are unfit violates process]
10 [[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993,](#)
11 [page 8K-34](#)]

12 See and rebut the questions at the end within 30 days or you agree:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

- 13 3. Equal protection of the law demands that I have the EQUAL right to demand that this court presume the
14 OPPOSITE, which is that I am NOT a member of the groups specifically exempted from the Federal
15 Register Notice and Publication Requirement and therefore may NOT lawfully become the target of any
16 federal enforcement action as a person domiciled in a state of the Union and protected by the United
17 States Constitution.
- 18 4. I demand that the Plaintiff answer the admissions at the end of this pamphlet within 30 days and that this
19 court's order must be consistent with this pamphlet or explain why it is wrong. Until such time as the
20 Plaintiff answers the questions, a default, equitable estoppel, and nihil dicit judgment against the Plaintiff
21 is the only appropriate approach by this Court. I remind this court that the Plaintiff and the officers of the
22 court are "public officers" who have a fiduciary duty to the public, of which I am a member, to exercise
23 their trust for my protection and benefit. That fiduciary duty is entirely incompatible with silence on such
24 an important issue as that raised in this pamphlet. Therefore, an adverse inference and default judgment
25 against the Plaintiff for his silence in response to the issues raised herein is the only appropriate remedy
26 for his silence on such an important, relevant, and overriding issue as that raised herein. This is
27 exhaustively explained below:

Silence as a Weapon and a Defense in Legal Discovery, Form #05.021
<http://sedm.org/Forms/FormIndex.htm>

- 28 14. Those who wish to apply the concepts within this document specifically to an IRS audit are encouraged to download
29 and use the following free form:

IRS Due Process Meeting Handout, Form #03.008
<http://sedm.org/Forms/FormIndex.htm>

30 **13 Resources for further study and rebuttal**

31 A number of additional resources are available for those who wish to further investigate the contents of the pamphlet:

- 32 1. *Federal Jurisdiction*, Form #05.018-exhaustive treatment of federal jurisdiction within states of the Union
33 <http://sedm.org/Forms/FormIndex.htm>
- 34 2. *Federal Jurisdiction*-Family Guardian Fellowship
35 <http://famguardian.org/Subjects/LawAndGovt/Articles/FedJurisdiction/FedJuris.htm>
- 36 3. *Jurisdiction over Federal Areas within the States*: U.S. government report, 1954
37 <http://www.sedm.org/cgi-bin/ccp51prod/cp-app.cgi?>
38 <http://www.sedm.org/cgi-bin/ccp51prod/cp-app.cgi?&pg=prod&ref=JurisOverFedAreasInStates&cat=eBooks&catstr=HOME:eBooks>
- 39 4. *Federal Jurisdiction Topic*: Family Guardian Discussion Forums
40 <http://famguardian.org/forums/index.php?showforum=14>
- 41 5. *Requirement for Reasonable Notice*, Form #05.022
42 <http://sedm.org/Forms/FormIndex.htm>
- 43 6. *Origin and Authority of the Internal Revenue Service*, Form #05.043-excellent, succinct primer on IRS jurisdiction
44 <http://sedm.org/Forms/FormIndex.htm>
- 45 7. *IRS Due Process Meeting Handout*, Form #03.008: Applies the principles contained in this document specifically to
46 an IRS audit.
47 <http://sedm.org/Forms/FormIndex.htm>
- 48 8. *Administrative Law and Process in a Nutshell, Fourth Edition*, Ernest Gellhorn and Ronald M. Levin, 1997, ISBN 0-
49 314-06683-7, West Publishing.
50 http://west.thomson.com/store/product.aspx?r=136240&product_id=22094315

9. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
<http://sedm.org/Forms/FormIndex.htm>

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

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

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

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

1. Admit that states of the Union are foreign, for the purposes of federal legislative jurisdiction, for most federal subject matters.

Foreign States: "Nations outside of the United States...Term may also refer to another state; i.e. a sister state. The term 'foreign nations', ...should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense."
[Black's Law Dictionary, 6th Edition, p. 648]

Foreign Laws: "The laws of a foreign country or sister state."
[Black's Law Dictionary, 6th Edition, p. 647]

Dual citizenship. Citizenship in two different **countries**. Status of citizens of United States who reside within a state; i.e., person who are born or naturalized in the U.S. are citizens of the U.S. and the state wherein they reside.
[Black's Law Dictionary, Sixth Edition, page 498]

YOUR ANSWER (circle one): Admit/Deny

2. Admit that Congress has no legislative jurisdiction within states of the Union

"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)]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: _____

3. Admit that the Internal Revenue Code qualifies as "legislation" as used in the previous question.

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: _____

4. Admit that due process of law requires that laws may not be enforced against a party without first giving him notice of the law BEFORE it becomes enforced.

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the [enforcement] 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. The exact contents of the notice required by due process will, of course, vary with the circumstances.

[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]

“It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard, as that **no man shall be condemned in his person or property without due notice and an opportunity of being heard in his own defense.**”
[Holden v. Hardy, [169 U.S. 366](#) (1898)]

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

5. Admit that Federal Register is the only authorized method by which the public at large are notified of laws which may 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:_____

6. Admit that the requirement for “notice” to the public of all laws which may be enforced is found in the Administrative Procedures Act as follows.

[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—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

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.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION:_____

1 7. Admit that the requirement for “notice” to the public of all laws which may be enforced is found in the Federal
2 Register Act as follows.

3 [TITLE 44 > CHAPTER 15 > § 1505](#)
4 [§ 1505. Documents to be published in Federal Register](#)

5 (a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect;
6 Documents Required To Be Published by Congress. There shall be published in the Federal Register—

7 [. . .]

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

10 YOUR ANSWER: ____Admit ____Deny

11 CLARIFICATION: _____

12
13
14 8. Admit that the ONLY exception to the requirement for “notice” to the public of all laws which may be enforced are
15 those indicated below:

- 16
17 1. A military or foreign affairs function of the United States. [5 U.S.C. §553](#)(a)(1).
18 2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)
19 [U.S.C. §553](#)(a)(2) .
20 3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505](#)(a)(1).

21 YOUR ANSWER: ____Admit ____Deny

22 CLARIFICATION: _____

23
24
25 9. Admit that no official within the United States government may lawfully waive the “notice” requirements of the
26 Federal Register Act or the Administrative Procedures Act against parties domiciled in states of the Union and
27 protected by the Constitution except those specifically exempted by law from the requirement as indicated in the
28 previous question and that if they do, they are violating due process of law and the Constitution and their oath of office.

29 YOUR ANSWER: ____Admit ____Deny

30 CLARIFICATION: _____

31
32
33 10. Admit that a statute that has no implementing regulations published in the Federal Register may not lawfully be
34 enforced against anyone other than members of the groups specifically exempted from the requirement.

35 [TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)
36 [§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in](#)
37 [Federal Register as notice of hearing](#)

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

43
44 [26 CFR §601.702](#) Publication and public inspection

45 (a)(2)(ii) Effect of failure to publish. Except to the extent that a person has actual and timely notice of the terms
46 of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the
47 Federal Register, **such person is not required in any manner to resort to, or be adversely affected by, such**
48 **matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this**
49 **subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so**
50 **published or incorporated by reference will not adversely change or affect a person's rights.**

1
2 YOUR ANSWER: ___ Admit ___ Deny

3
4 CLARIFICATION: _____

- 5 11. Admit that when the government is enforcing the Internal Revenue Code as the moving party and calls someone into
6 an audit, they have the burden of proving ON THE RECORD, when challenged, that they have enforcement authority
7 and that absent evidence of enforcement authority on the record of the proceeding, then they cannot lawfully enforce
8 and are engaging in a tort.

9 [TITLE 5 > PART 1 > CHAPTER 5 > SUBCHAPTER II > § 556](#)
10 [§ 556. Hearings: presiding employees; powers and duties; burden of proof; evidence; record as basis of](#)
11 [decision](#)

12 *(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any*
13 *oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the*
14 *exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or*
15 *order issued except on consideration of the whole record or those parts thereof cited by a party and supported*
16 *by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent*
17 *consistent with the interests of justice and the policy of the underlying statutes administered by the agency,*
18 *consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has*
19 *knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present*
20 *his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-*
21 *examination as may be required for a full and true disclosure of the facts. In rule making or determining claims*
22 *for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced*
23 *thereby, adopt procedures for the submission of all or part of the evidence in written form.*

24
25 YOUR ANSWER: ___ Admit ___ Deny

26
27 CLARIFICATION: _____

- 28 12. Admit statutes which have no implementing regulations published in the Federal Register may only be lawfully be
29 enforced against the following groups that are specifically exempted from the Federal Register Publication
30 requirements, all of which are agencies, instrumentalities, officers, employees, and contractors of the United States
31 government.

- 32
33 1. A military or foreign affairs function of the United States. [5 U.S.C. §553](#)(a)(1).
34 2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)
35 [U.S.C. §553](#)(a)(2).
36 3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505](#)(a)(1).

37
38 YOUR ANSWER: ___ Admit ___ Deny

39
40 CLARIFICATION: _____

- 41 13. Admit that there are no implementing regulations published in the Federal Register for any of the criminal provisions
42 of the Internal Revenue Code found in 26 U.S.C. §§7201 to 7217.

43
44 YOUR ANSWER: ___ Admit ___ Deny

45
46 CLARIFICATION: _____

- 47 14. Admit that the criminal provisions of the Internal Revenue Code may only be enforced against persons who are a
48 member of the groups specifically exempted from the requirement for publication in the Federal Register of all
49 enforcement provisions.

50
51 YOUR ANSWER: ___ Admit ___ Deny

52
53 CLARIFICATION: _____

1 15. Admit that the following court cite establishes, based on the preceding question, that the requirement to file a federal
2 income tax return only applies to persons who are members of the groups specifically exempted from the requirement
3 for implementing regulations.

4 "Federal income tax regulations governing filing of income tax returns do not require Office of Management
5 and Budget control numbers because requirement to file tax return is mandated by statute, not by regulation."
6 [U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290 , affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659,
7 507 U.S. 1010, 123 L.Ed.2d. 278]

8
9 YOUR ANSWER: ___ Admit ___ Deny

10
11 CLARIFICATION: _____

12 16. Admit that the "United States" is defined as the District of Columbia pursuant to [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10).

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

15 (a)(9) United States

16 The term "United States" when used in a geographical sense includes only the [States](#) and the District of
17 Columbia.

18 (a)(10) State

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

21 YOUR ANSWER (circle one): Admit/Deny

22 17. Admit that the [Uniform Commercial Code, Section 9-307\(h\)](#) identifies the "United States" as the "District of
23 Columbia":

24 [UCC 9-307](#)

25 "(h) The United States is located in the District of Columbia."

26 [SOURCE: <http://www.law.cornell.edu/ucc/9/article9.htm#s9-307>]

27 YOUR ANSWER (circle one): Admit/Deny

28 18. Admit that under the rules of statutory construction, what is not included in a definition may be presumed to be
29 purposefully excluded by implication.

30 "Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that the expression of one
31 thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,
32 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. When certain persons
33 or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be
34 inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects
35 of a certain provision, other exceptions or effects are excluded."
36 [Black's Law Dictionary, Sixth Edition, p. 581]

37 "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term,"
38 [Meese v. Keene, 481 U.S. 465, 484 (1987)]

39 YOUR ANSWER (circle one): Admit/Deny

40 19. Admit that when a statutory definition is provided, it SUPERSEDES, rather than ENLARGES the commonly
41 understood definition.

42 "It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v.
43 Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed

1 in other legislation, has no pejorative connotation. As judges, it is our duty to [481 U.S. 485] construe
2 legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who
3 has not even read it.
4 [Meese v. Keene, 481 U.S. 465, 484 (1987)]

5 "As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated'
6 [Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]

7 "When a statute includes an explicit definition, we must follow that definition, even if it varies from that
8 term's ordinary meaning. Meese v. Keene, 481 U.S. 465, 484-485 (1987) ("It is axiomatic that the statutory
9 definition of the term excludes unstated meanings of that term"); Colautti v. Franklin, 439 U.S. at 392-393, n.
10 10 ("As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated");
11 Western Union Telegraph Co. v. Lenroot, 323 U.S. 490, 502 (1945); Fox v. Standard Oil Co. of N.J., 294 U.S.
12 87, 95-96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §
13 47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," post at
14 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition. That definition does not include
15 the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the
16 contrary."
17 [Stenberg v. Carhart, 530 U.S. 914 (2000)]

18 YOUR ANSWER (circle one): Admit/Deny

- 19 20. Admit that under [4 U.S.C. §72](#), all those exercising a "public office" within the federal government must do so in the
20 District of Columbia and NOT elsewhere.

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

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

25 [http://www4.law.cornell.edu/uscode/html/uscode04/usc_sec_04_00000072----000-.html]

26 YOUR ANSWER (circle one): Admit/Deny

- 27 21. Admit that there is no provision of law extending "public offices" to any state of the Union as required by the above
28 positive law statute.

29 YOUR ANSWER (circle one): Admit/Deny

- 30 22. Admit that [48 U.S.C. §1612\(a\)](#) extends the authority of the Secretary of the Treasury to enforce Title 26, Subchapter F
31 to the Virgin Islands.

32 YOUR ANSWER (circle one): Admit/Deny

- 33 23. Admit that Congress has not "expressly" extended the authority of the Secretary of the Treasury to any one of the
34 several states of the Union.

35 YOUR ANSWER (circle one): Admit/Deny

- 36 24. Admit that there is no statutory authority or [Treasury Order](#) which would "expressly" extend the authority of the
37 Secretary outside the District of Columbia to the several Union states.

38 YOUR ANSWER (circle one): Admit/Deny

- 39 25. Admit that the "State" referred to in [26 U.S.C. §7621](#) above is a federal "State" defined in 4 U.S.C. §110(d), which is a
40 territory or possession of the United States and includes no part of any state of the Union:

41 [TITLE 4 > CHAPTER 4 > § 110](#)
42 [§ 110. Same; definitions](#)

43 As used in sections 105–109 of this title—

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

YOUR ANSWER (circle one): Admit/Deny

26. Admit that the states of the Union are not "territories" of the United States:

*Corpus Juris Secundum Legal Encyclopedia
Territories
"§1. Definitions, Nature, and Distinctions*

"The word 'territory,' when used to designate a political organization has a distinctive, fixed, and legal meaning under the political institutions of the United States, and does not necessarily include all the territorial possessions of the United States, but may include only the portions thereof which are organized and exercise governmental functions under act of congress."

"While the term 'territory' is often loosely used, and has even been construed to include municipal subdivisions of a territory, and 'territories of the' United States is sometimes used to refer to the entire domain over which the United States exercises dominion, the word 'territory,' when used to designate a political organization, has a distinctive, fixed, and legal meaning under the political institutions of the United States, and the term 'territory' or 'territories' does not necessarily include only a portion or the portions thereof which are organized and exercise government functions under acts of congress. The term 'territories' has been defined to be political subdivisions of the outlying dominion of the United States, and in this sense the term 'territory' is not a description of a definite area of land but of a political unit governing and being governed as such. The question whether a particular subdivision or entity is a territory is not determined by the particular form of government with which it is, more or less temporarily, invested.

"Territories' or 'territory' as including 'state' or 'states.'" While the term 'territories of the' United States may, under certain circumstances, include the states of the Union, as used in the federal Constitution and in ordinary acts of congress "territory" does not include a foreign state.

*"As used in this title, the term 'territories' generally refers to the political subdivisions created by congress, and not within the boundaries of any of the several states."
[86 Corpus Juris Secundum (C.J.S.), Territories, §1, Emphasis added]*

YOUR ANSWER (circle one): Admit/Deny

27. Admit that the term "State" as used in the Constitution includes states of the Union and excludes territories and possessions of the United States.

*"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies between citizens of different states, a citizen of the District of Columbia could not maintain an action in the circuit court of the United States. It was argued that the word 'state,' in that connection, was used simply to denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is a state in the sense of that instrument. **The result of that examination is a conviction that the members of the American confederacy only are the states contemplated in the Constitution, . . . and excludes from the term the signification attached to it by writers on the law of nations.' This case was followed in Barney v. Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049, 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat. 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it was said that 'neither of them is a state in the sense in which that term is used in the Constitution.'** In Scott v. Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1, 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within the contemplation of Congress."
[Downes v. Bidwell, 182 U.S. 244 (1901)]*

YOUR ANSWER (circle one): Admit/Deny

28. Admit that the term "State" as defined in 4 U.S.C. §110(d) refers to a territory or possession of the United States pursuant to the Buck Act.

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

Sec. 110. Same; definitions

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

YOUR ANSWER (circle one): Admit/Deny

29. Admit that following are the only subject matters for which the states of the Union are "domestic" for the purposes of federal legislative jurisdiction, pursuant to the authority of the Constitution of the United States of America.
- Counterfeiting pursuant to Article 1, Section 8, Clause 5 of the United States Constitution.
 - Postal matters pursuant to Article 1, Section 8, Clause 7 of the United States Constitution.
 - Foreign commerce pursuant to Article 1, Section 8, Clause 3 of the United States Constitution.
 - Treason pursuant to Article 4, Section 2, Clause 2 of the United States Constitution.
 - Property, contracts, and franchises of the U.S. Government coming under Article 4, Section 3, Clause 2 of the United States Constitution.

YOUR ANSWER (circle one): Admit/Deny

30. Admit that according to the U.S. Supreme Court, the taxing powers of Congress do not extend into any state of the Union.

"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)]

YOUR ANSWER (circle one): Admit/Deny

31. Admit that a person with a domicile within a state of the Union does not have a "domicile" within the "United States" that is defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia and not expanded anywhere in the I.R.C. Subtitle A to add any state of the Union.

TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]
Sec. 7701. - Definitions

(a)(9) United States

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

(a)(10) State

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

YOUR ANSWER (circle one): Admit/Deny

32. Admit that a constitutional "citizen of the United States" mentioned in the Fourteenth Amendment, Section 1 is not the same as a statutory "citizen of the United States" defined in 8 U.S.C. §1401.

Fourteenth Amendment

1 Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are
2 citizens of the United States and of the State wherein they reside.

3 YOUR ANSWER (circle one): Admit/Deny

- 4 33. Admit that the reason a constitutional “citizen of the United States” mentioned in the Fourteenth Amendment, Section
5 1 is not the same as a statutory “citizen of the United States” defined in [8 U.S.C. §1401](#) is because the term “United
6 States” has two completely different meanings in these two contexts.

7 Constitutional definition of “United States” according to the U.S. Supreme Court:

8 *"The earliest case is that of Hepburn v. Ellzey, 2 Cranch, 445, 2 L.Ed. 332, in which this court held that, under
9 that clause of the Constitution limiting the jurisdiction of the courts of the United States to controversies
10 between citizens of different states, a citizen of the District of Columbia could not maintain an action in the
11 circuit court of the United States. It was argued that the word 'state,' in that connection, was used simply to
12 denote a distinct political society. 'But,' said the Chief Justice, 'as the act of Congress obviously used the word
13 'state' in reference to that term as used in the Constitution, it becomes necessary to inquire whether Columbia is
14 a state in the sense of that instrument. **The result of that examination is a conviction that the members of the
15 American confederacy only are the states contemplated in the Constitution, . . . and excludes from the term
16 the signification attached to it by writers on the law of nations.' This case was followed in Barney v.
17 Baltimore, 6 Wall. 280, 18 L.Ed. 825, and quite recently in Hooe v. Jamieson, 166 U.S. 395, 41 L.Ed. 1049,
18 17 Sup.Ct.Rep. 596. The same rule was applied to citizens of territories in New Orleans v. Winter, 1 Wheat.
19 91, 4 L.Ed. 44, in which an attempt was made to distinguish a territory from the District of Columbia. But it
20 was said that 'neither of them is a state in the sense in which that term is used in the Constitution.' In Scott v.
21 Jones, 5 How. 343, 12 L.Ed. 181, and in Miners' Bank v. Iowa ex rel. District Prosecuting Attorney, 12 How. 1,
22 13 L.Ed. 867, it was held that under the judiciary act, permitting writs of error to the supreme court of a state in
23 cases where the validity of a state statute is drawn in question, an act of a territorial legislature was not within
24 the contemplation of Congress."
25 [Downes v. Bidwell, [182 U.S. 244](#) (1901)]***

26 Statutory definition of “United States” for the purposes of statutory citizenship

27 [8 U.S.C. §1101 Definitions](#)
28 [TITLE 8 > CHAPTER 12 > SUBCHAPTER 1 > Sec. 1101. \[Aliens and Nationality\]](#)
29 [Sec. 1101. - Definitions](#)

30 (a)(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical
31 sense, means the [federal areas within the] [continental United States](#), Alaska, Hawaii, Puerto Rico, Guam, and
32 the Virgin Islands of the United States.
33

34 [Code of Federal Regulations]
35 [Title 8, Volume 1]
36 [Revised as of January 1, 2002]
37 From the U.S. Government Printing Office via GPO Access
38 [CITE: 8CFR215]
39 TITLE 8--ALIENS AND NATIONALITY CHAPTER 1--IMMIGRATION AND NATURALIZATION SERVICE,
40 DEPARTMENT OF JUSTICE
41 PART 215--CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

42 [Section 215.1: Definitions](#)

43
44 (f) The term continental United States means the District of Columbia and the several [States](#), except Alaska and
45 Hawaii.
46
47

48 [8 U.S.C. Sec. 1101\(a\)\(36\): State \[Aliens and Nationality\]](#)

49 The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United
50 States.

51 YOUR ANSWER (circle one): Admit/Deny

- 52 34. Admit that the differences in meaning of the term “United States” in the two contexts:

53 1. The Constitution;
54

1 2. Acts of Congress,

2
3 . . . is a direct result of the operation of the Separation of Powers Doctrine which was carefully and deliberately put
4 there for the protection of our rights and liberties.

5 *The Constitution does not protect the sovereignty of States for the benefit of the States or state governments as*
6 *abstract political entities, or even for the benefit of the public officials governing the States. **To the contrary,***
7 ***the Constitution divides authority between federal and state governments for the protection of individuals.***
8 ***State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive***
9 ***from the diffusion of sovereign power." Coleman v. Thompson, 501 U.S. 722, 759 (1991) (BLACKMUN, J.,***
10 ***dissenting). "Just as the separation and independence of the coordinate branches of the Federal Government***
11 ***serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between***
12 ***the States and the Federal Government will reduce the risk of tyranny and abuse from either front." Gregory***
13 ***v. [505 U.S. 144, 182] Ashcroft, 501 U.S., at 458. See The Federalist No. 51, p. 323. (C. Rossiter ed. 1961).***
14 ***[New York v. United States, 505 U.S. 144, 112 S.Ct. 2408, 120 L.Ed.2d. 120 (1992)]***

15 YOUR ANSWER (circle one): Admit/Deny

- 16 35. Admit that a public servant or a member of the legal profession, who swears an oath to support and defend the
17 Constitution of the United States cannot fail to recognize or respect all of the implications of the Separation of Powers
18 Doctrine without violating that oath.

19 "I, _____, do solemnly swear and affirm that I will administer justice without regard to persons and do equal
20 right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all of the duties
21 incumbent upon me as _____ under the Constitution and laws of the United States, and that I will
22 support and defend the Constitution of the United States against all enemies foreign and domestic, that I will
23 bear true faith and allegiance to the same, and that I take this obligation freely without any mental reservation
24 or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about
25 to enter. So help me God."
26 [Oath of Article III federal judges, according to the Administrative Office of the Federal Courts]

27 YOUR ANSWER (circle one): Admit/Deny

- 28 36. Admit that all exercises of legislative jurisdiction outside of federal territory require "comity" in some form.

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

37 YOUR ANSWER (circle one): Admit/Deny

- 38 37. If you the reader still disagree with the conclusions of this pamphlet in section 9.5 earlier upon reaching this point,
39 please also answer all the admissions at the end of the following pamphlet.

40
41 Requirement for Reasonable Notice, Form #05.022
42 <http://sedm.org/Forms/FormIndex.htm>

43
44 **Affirmation:**

45 I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing
46 questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these
47 answers are completely consistent with each other and with my understanding of both the Constitution of the United States,
48 Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not
49 necessarily lower federal courts.

50 Name (print): _____

1 Signature: _____

2 Date: _____

3 Witness name (print): _____

4 Witness Signature: _____

5 Witness Date: _____