

# ***Income Tax Withholding and Reporting***

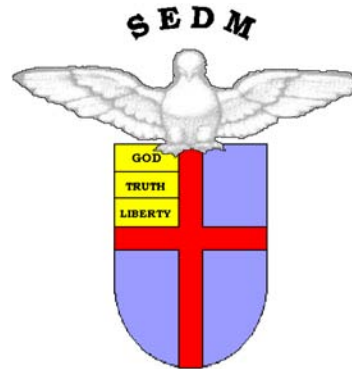
***Form #12.004***

***By:***

***Sovereignty Education and Defense Ministry (SEDM)***

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# Course Materials

If you want a copy of this presentation after viewing the course, you can download it from:

- Liberty University, Item #3.2

<http://sedm.org/LibertyU/LibertyU.htm>

- Forms Page, Form #12.004

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



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- Information appearing in this presentation is educational in nature
- We make ***no promises or guarantees*** about the effectiveness or accuracy of anything presented
- The application of this information to your specific legal circumstances is entirely your choice and exclusively your and not our responsibility
- Everything presented is based on:
  - Thousands of hours of research of tax laws
  - Review and use of the resulting research by the over 50,000 people who have visited and are currently using the [SEDM Website](#)
  - Continuous feedback from our readers that have improved the quality of the information over time
  - Exhaustive review of our website by the Federal Judiciary, the Dept. of Justice, and the IRS which did not find anything factually wrong with anything currently posted on this website. See: <http://famguardian.org/Subjects/Taxes/News/CHRuling-060615.htm>
- If you find anything wrong in this presentation, we would appreciate you pointing out the evidence upon which you base that conclusion so that we may continually improve our materials. Your evidence must be completely consistent with our presentation below:
  - Reasonable Belief About Income Tax Liability*, Form #05.007  
<http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf>
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<http://sedm.org/Membership/MemberAgreement.htm>

# Admonition

- If you are using government services, then you should pay for everything you use
- Don't pay your "fair share", pay what the law says you owe and nothing more. "Fair share" is too subjective and when used as a criteria in court, politicizes and corrupts the courts
- The following persons are irresponsible and thieves:
  - Those who don't pay for all the services they use
  - Those who collect more from an unwilling "taxpayer" than is necessary to pay for the services they use
  - Those who collect anything from a person who does not want or does not need government services and who refuses to declare a domicile within the jurisdiction of the state. See: Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002  
<http://sedm.org/Forms/MemLaw/Domicile.pdf>
- Your public DIS-servants selfishly only concern themselves with the FIRST of the three items above. We ensure they worry about ALL of the items above, because if they don't, THEY and not you are the thief
- If you are going to use the information in this presentation to lawfully avoid taxes, you should also agree to stop using the government services that they pay for. This is the only way to be a responsible American and avoid burdening or hurting your neighbor
- We believe that those who do not wish to contribute anything to the tax system should always have a lawful option to "divorce the state" and refuse to accept government services or the obligations that go with them. This is what it means to live in a free country.
- Government is a corporation, and like any other corporation, we should have a right NOT to do business with them. See 28 U.S.C. §3002(15)(A). To admit otherwise, is to admit that the government can compel you to contract with them in violation of Article 1, Section 10 of the U.S. Constitution

# ***Learning Objectives***

- **Review the conclusions of:**  
Federal and State Income Taxation of Individuals, Form #12.003  
<http://sedm.org/Forms/FormIndex.htm>
- **Explain legal requirements for payroll withholding**
- **Explain information returns and what types of earnings are reportable**
- **Describe the various types of information returns and their proper use**
- **Describe withholding and reporting for ministers of the gospel**
- **Describe withholding and reporting in the context of real estate transactions**
- **Describe remedies to prevent the filing of false information returns and correct false returns that are already filed**
- **Provide pointers to learn more about the subject of tax withholding and reporting**
- **Give you a starting point for further research and education into the subject of personal income taxes**

# ***Course Outline***

- 1. Taxable Income**
- 2. “Trade or business”**
- 3. “Employer”**
- 4. “Employee”**
- 5. Information returns**
- 6. The Tax Loop**
- 7. Correcting false information returns**
- 8. “wages” and IRS Form W-4**
- 9. Information returns: W-2, 1099, and 1042-S, 1098**
- 10. Backup withholding**
- 11. Currency Transaction Reporting (CTR)**
- 12. Real Estate Sales**
- 13. Withholding and reporting on Church Ministers**
- 14. Legal remedies for false information returns**
- 15. Getting connected: resources**
- 16. Conclusions**
- 17. Questions?**

# **IMPORTANT PRELIMINARY NOTE**

- We do NOT challenge the Constitutionality of any part of the Internal Revenue Code. It is completely Constitutional and lawful.
- What is unconstitutional is the way the I.R.C. is represented to the American public, administered, and enforced by the IRS.
- Most of the illegal administration and enforcement of the I.R.C. results from omission, not commission. Our enemy is not the government, the IRS, or even taxes, but instead is:
  1. Legal ignorance on the part of Americans that allows public servants to abuse their authority and violate the law.
  2. The abuse of [presumption](#) to injure the rights of sovereign Americans, in violation of due process of law and God's law found in [Numbers 15:30](#) (NKJV) . Much of this presumption is compelled by the government by willfully dumbing-down the average Americans about legal subjects in the public (government) schools. This makes the legal profession into essentially a "priesthood" and a pagan "religion" that the average American blindly worships and obeys, without ever questioning authority. It is a supreme injustice to proceed against a person without every conclusion being based ONLY on fact and not presumption, opinion, or belief. See the following for a detailed article on this scam and sin: <http://sedm.org/Forms/MemLaw/Presumption.pdf>
  3. Public servants deceiving the public by portraying "Private Law" as "Public Law". See the following for an article on this subject: <http://sedm.org/Forms/MemLaw/Consent.pdf>
  4. Public servants refusing to acknowledge the requirement for consent in all human interactions. See the following for an extensive article on this subject: <http://sedm.org/Forms/MemLaw/Consent.pdf>
  5. Willful omissions from the IRS website and publications that keep the public from learning the whole truth. The problem is not mainly what these sources say, but what the DON'T say. The [Great IRS Hoax](#) contains over 2,000 pages of facts that neither the IRS nor any one in government is willing to reveal to you because it would destroy the gravy train of plunder that pays their bloated salaries and fat retirement in violation of [18 U.S.C. §208](#).

# IMPORTANT PRELIMINARY NOTE

6. The use of "words of art" to deceive the people in both government publications and the law itself. See the following for examples: <http://famguardian.org/TaxFreedom/FormsInstr-Cites.htm>
7. The lack of "equal protection of the law" in courts of justice relating to the statements and actions of public servants, whereby the IRS doesn't have to assume responsibility for its statements and actions, and yet persons who fill out tax forms can be thrown in jail and prosecuted for fraud if they emulate the IRS by being just as careless. This also includes "selective enforcement", where the DOJ positively refuses to prosecute submitters of [false information returns](#) but spends a disproportionate share of its resources prosecuting false income tax returns. They do this because they are more interested in STEALING your money than in justice. See:
  - 7.1 *Federal Courts and IRS' Own IRM Say NOT RESPONSIBLE for its actions or its words or following its own internal procedures*  
<http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>
  - 7.2 *Requirement for Equal Protection and Equal Treatment*, Form #05.033  
<http://sedm.org/Forms/MemLaw/EqualProtection.pdf>
  - 7.3 *Government Establishment of Religion*, Form #05.038 -how government establishes itself as a pagan deity and a religion by using franchises to systematically destroy the separation of powers and the requirement for equal protection
8. Abuses of franchises that undermine the protection of private rights by the government and the courts:
  - 8.1 Enforcing federal franchises in States of the Union, which are outside the civil jurisdiction or police powers of the federal government and result in a destruction of the separation of powers.
  - 8.2 Enforcing franchises, such as a "[trade or business](#)" without requiring explicit written consent in some form, such as the issuance and voluntary signing of an application for a license. See the following for details: <http://sedm.org/Forms/MemLaw/Franchises.pdf>
  - 8.3 Attorney licensing, which destroys the integrity of the legal profession in its role as a check and balance when the government or especially the judiciary becomes corrupt, as it is now.
  - 8.4 Abuse of the federal income tax system, which is a franchise and an excise, to bribe states of the Union to give up their sovereignty, act like federal "States" and territories, and accept what amounts to federal bribes to disrespect the rights or those under their care and protection.



# IMPORTANT PRELIMINARY NOTE

9. Efforts to destroy the separation of powers that is the main protection for our liberties. This results in abuses of the Court system for political, rather than legal, purposes (politicization of the courts). All of the federal courts we have now are Article IV, territorial courts that are part of the Executive, rather than Judicial Branch of the government. As such, there is no separation of powers and nothing but tyranny can result. See the following for proof of this destruction:
  - 9.1 [Government Conspiracy to Destroy the Separation of Powers, Form #05.023](#) (OFFSITE LINK)- shows how lying, thieving public servants have systematically destroyed the separation of powers since the founding of this country
  - 9.2 [What Happened to Justice?](#) (OFFSITE LINK)-book which proves that we have no Judicial Branch within the federal government, and that all the existing federal courts are acting in an Article IV territorial capacity as part of the Executive, rather than Judicial, branch of the government.
  - 9.3 [How Scoundrels Corrupted our Republican Form of Government](#)-brief overview of how the separation of powers has been systematically destroyed
10. The abuse of the government's power to tax in order to transfer wealth between private individuals, which makes the government into a thief and a Robinhood. This includes:
  - 10.1 Enforcing the tax laws against other than "public officers" of the government. See:
  - 10.2 [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> Offering government "benefits" of any kind to anyone who does not ALREADY work for the government. See:
  - 10.3 [The Government "Benefits" Scam](#), Form #05.040  
<http://sedm.org/Forms/FormIndex.htm>
11. Corruption of our monetary system that allows the government to to:
  - 11.1 Counterfeit while denying to all others the right, thus creating an unconstitutional "Title of Nobility" for itself and making itself into a pagan deity, and denying the equal protection to all that is the foundation of the Constitution.
  - 11.2 STEAL from the American people by diluting the value of money already into circulation.
  - 11.3 Exercise undue control banks and financial institutions that causes them to effectively become federal employment recruiters for the federal government by compelling use of government identifying numbers for those pursuing accounts or loans.See the following for details on the above SCAMS:  
[The Money Scam](#), Form #05.041 <http://sedm.org/Forms/FormIndex.htm>

# ***Nature of I.R.C. Subtitle A***

- **Subtitle A of the Internal Revenue Code** describes an indirect excise tax, which is a tax only upon artificial entities and businesses and not on biological people
- All excise taxes are imposed on “licensed” or “privileged activities”
- The “privilege” upon which the income tax is imposed is a “**trade or business**”, which is defined in **26 U.S.C. §7701(a)(26)** as “the functions of a public office” in the U.S. government
- Within states of the Union, federal government **only** has jurisdiction to tax imports under Constitution, **Article 1, Section 8, Clause 3**. This is the **ONLY** privileged/taxable activity applicable to states of the Union, and it is only taxable to federally registered corporations
- Within the federal zone, **Article 1, Section 8, Clauses 1 and 17** of the Constitution give Congress unrestricted jurisdiction to tax anything it likes, not just importation by corporations
- The I.R.C. describes taxation for two mutually exclusive territorial and legal jurisdictions.
  - The District of Columbia, and the territories and possessions of the United States
  - The states of the Union

# Statutory “Withholding Agents”

- Only “[withholding agents](#)” as defined in [26 U.S.C. §7701\(a\)\(16\)](#) can lawfully withhold
- You cannot be a “withholding agent” without:
  - Being a statutory “taxpayer” subject to the I.R.C. as defined in [26 U.S.C. §7701\(a\)\(14\)](#).
  - Being a “resident alien”. All “taxpayers” in the I.R.C. are, in fact, resident aliens. Those who are “foreigners” but not “persons” and therefore nonresidents cannot lawfully be “withholding agents”.
- You aren’t a “[withholding agent](#)” unless [IRS form 2678](#) has been executed authorizing the person to be a “[withholding agent](#)”

# Withholding Background

- Withholding can ONLY occur in the “[United States](#)”
  - “United States” is defined in [26 U.S.C. §7701\(a\)\(9\) and \(a\)\(10\)](#) and [4 U.S.C. §110\(d\)](#) as the District of Columbia, and the territories and possessions of the [United States](#). This is the “geographical sense” for the term, but there are *other* undisclosed senses used in the I.R.C. as well that must be consistent with the *geographical sense*.

[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.
  - (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.
  - [26 U.S.C. §864\(c\)\(3\)](#) says that all earnings originating in the “United States” are presumed to be “[trade or business](#)” earnings connected with a “public office”. Therefore, the term “United States” really means the United States government, and is not a geographical place, such as that defined in [26 U.S.C. §7701\(a\)\(9\) and \(a\)\(10\)](#)
  - 26 CFR §31.3121(b)-3(c) says that there is no such thing as “employment” outside the “[United States](#)”

[26 CFR §31.3121\(b\)-3 Employment services performed after 1954](#)
  - (c) *Services performed outside the United States—(1) In general. Except as provided in paragraphs (c)(2) and (3) of this section, services performed outside the United States (see §31.3121(e)-1) do not constitute employment.*

# ***Withholding Background***

- All withholding accomplished under [I.R.C. Subtitle C](#) is classified by the IRS as “Tax Class 5”, which means “Information Return Processing (IRP), Estate and Gift Tax “. Income taxes are “Tax Class 2”.
- IRS has no statutory authority to convert Tax Class 5 to Tax Class 2 because they can’t lawfully turn a “gift” into a “[liability](#)”. Only you as the sovereign can do that by assessing yourself on a tax return. See [Great IRS Hoax](#), section 5.6.8, which says that all withholding are gifts to the U.S. government, and not “[taxes](#)”.
- The ONLY legitimate reason to withhold under [I.R.C. Subtitle C](#) is because you anticipate a liability under [I.R.C. Subtitle A](#)
- If you won’t have a [tax liability](#) under [I.R.C. Subtitle A](#), then you shouldn’t withhold or allow others to withhold against your wishes

# “Taxable income”

- Important thing to remember is that under [I.R.C. Subtitle A](#), there are only three types of “[income](#)” that are “taxable” or “[gross income](#)”:
  - [Income](#) from “foreign commerce”, under [Article 1, Section 8](#), Clauses 1 and 3
  - [Income](#) “effectively connected with a [trade or business](#) in the United States”, which means income derived from a public office. See [26 U.S.C. §7701\(a\)\(26\)](#) for definition of “trade or business” and [26 CFR § 1.861-8\(f\)\(1\)\(iv\)](#) for the only taxable source of income to human beings
  - Fixed or periodic income originating from within the District of Columbia not connected with a “[trade or business](#)” under [26 U.S.C. §871\(a\)](#).
- The above types of taxable income are clearly shown in IRS publications:
  - The [IRS 1040 booklet for 2001](#) on p. 20 under the title “[Income](#)” only lists the following as “income”:
    - » “[Foreign](#)-source income”
    - » “[Wages](#)” under I.R.C. Subtitle C-which is income subject to a “voluntary withholding agreement” under [26 CFR §31.3401\(a\)-3](#) and originating from a “[public office](#)” in the District of Columbia
  - [Click here](#) to see the above 1040 booklet for yourself!
  - If you write the IRS Disclosure office and ask them for the right form to use for people who don’t work for the government and are private workers with no “[trade or business](#)” earnings, they will tell you:  
*“We have no documents responsive to your request”*

# “Trade or Business”

- Legal definition:  
[26 U.S.C. Sec. 7701\(a\)\(26\)](#)  
"The term '[trade or business](#)' includes the performance of the functions of a [public office](#)."
- There is no other section of the I.R.C. which would expand upon or add to the above definition, and therefore it is all-inclusive and restrictive  
*"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, page 581]*
- For a detailed explanation of why the word “includes” cannot be used to add the common definition of the term “[trade or business](#)” and cannot expand the definition appearing in the I.R.C. beyond what is specifically enumerated, see and rebut the following:  
*Meaning of the Words “Includes” and “Including”, Form #05.014*  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/MemLaw/Includes.pdf>
- A “[trade or business](#)” is an activity
- All taxes on activities are indirect excise taxes
- A tax on an activity is “indirect” because you can avoid it by avoiding the activity
- For exhaustive details on what a “trade or business” is, see:  
*The “Trade or Business” Scam, Form #05.001*  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>

# “Employer”

- **Legal Definition:**

[26 U.S.C. §3401\(d\) Employer](#)

*For purposes of this chapter, the term “employer” means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—*

*(1) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term “employer” (except for purposes of subsection (a)) means the person having control of the payment of such wages, and*

*(2) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term “employer” (except for purposes of subsection (a)) means such person.*

- **Bottom line: Unless your workers are “public officials” engaged in a privileged “trade or business”, then you aren’t a federal “employer” as legally defined**



# “Employee”

- **Legal Definition:**

[26 U.S.C. §3401\(c\)](#)

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

- **Bottom Line:** Unless you are a federal public official or contractor engaged in a privileged “trade or business”, then you aren’t an “employee” as legally defined. For further details, see:

*Why Your Government is Either A Thief or You Are A “Public Officer” for Income Tax Purposes, Form #05.008*

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

DIRECT LINK: <http://sedm.org/Forms/MemLaw/WhyThiefOrPubOfficer.pdf>

# Status of Most Americans

- Within the tax code, people domiciled in states of the Union are “nonresidents” and statutory but not constitutional “aliens” as described in 26 U.S.C. §7701(b)(1)(B)
- For information on withholding requirements and tax liabilities of nonresident aliens, see:  
*Nonresident Alien Position*, Form #05.020  
FORMS PAGE <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/MemLaw/NonresidentAlienPosition.pdf>
- The ONLY government form that a “nonresident alien” who is NOT an “individual” can use to stop withholding is the IRS form W-8BEN, which is available at:  
*About IRS Form W-8BEN*, Form #04.202  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/Tax/Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>
- **DON'T use the IRS form W-4 to stop withholding!**
- A “nonresident alien” not engaged in a “trade or business” who fills out a W-4 form:
  - Makes an election to become a “resident alien” as defined in 26 U.S.C. §7701(b)(1)(A) pursuant to 26 U.S.C. §7701(b)(4)(B)
  - Becomes a “U.S. person” as defined in 26 U.S.C. §7701(a)(30)
  - Becomes a “taxpayer” as defined in 26 U.S.C. §7701(a)(14)
  - Becomes a federal contractor and/or a “public officer” subject to the entire I.R.C.

# Status of Most Americans (cont)

- Types of “nonresident aliens” are described in [26 CFR §1.871-1\(b\)](#).
- A nonresident alien “[individual](#)” not engaged in a “[trade or business](#)” is defined in [26 CFR §1.871-1\(b\)\(1\)\(i\)](#). People domiciled in states of the Union are close to this status but are NOT “[individuals](#)” unless they:
  - Are lawfully serving in a public officer in the U.S. government within the District of Columbia. [5 U.S.C. §2105\(a\)](#) identifies all statutory “[employees](#)” and public officers as ALSO being “individuals” OR
  - Have made a voluntary “election” to become a resident alien pursuant to [26 U.S.C. §6013\(g\)](#) and (h) because you are married to a statutory but not constitutional “U.S. citizen” and are NOT a “non-citizen national” as described in [8 U.S.C. §1101\(a\)\(21\)](#) and [8 U.S.C. §1452](#).
- If you claim the status found in [26 CFR §1.871-1\(b\)\(1\)\(i\)](#), emphasize that you are NOT an “individual” because you are not a “public officer” and do not have a domicile on federal territory. The following forms implement this suggestion:
  - *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/Affidavits/AffCitDomTax.pdf>
  - *About IRS Form W-8BEN*, Form #04.202: Amendment W-8BEN adds “transient foreigner” option to block 3 so you don’t have to declare yourself an “individual”  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/Tax/Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>

## **“Nonresident Alien” Elections to Become “Resident Aliens”**

- **26 U.S.C. §6013(g) and (h) is the ONLY authority for a “nonresident alien” to elect to become a “resident alien”**
- **The election is only authorized in the case of nonresident aliens married to statutory “U.S. citizens” pursuant to 8 U.S.C. §1401.**
- **The election is ILLEGAL and unauthorized if:**
  - The “nonresident alien” (NRA) is a “non-citizen national” pursuant to 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1452. Such an election would make the into a statutory “U.S. citizen” rather than a “resident alien”. You cannot be a “resident alien” pursuant to 26 U.S.C. §7701(b)(1)(A) and a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401 at the same time. It is also a CRIMINAL VIOLATION of 18 U.S.C. §912 to impersonate a statutory “U.S. citizen” as a “non-citizen national”.
  - The spouse of the NRA is a constitutional “citizen of the United States” with no domicile on federal territory (see the previous item, which is synonymous).
  - The spouse of the NRA is *not* in fact and in deed a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401, regardless of what they *think* they are.
  - The IRS makes the election for you by doing a Substitute For Return (SFR) using IRS form 1040 against you. Only YOU can make such an election and you can’t be compelled to consent to such an election by others.

# “Nonresident Alien” Withholding

- Backup withholding described in [26 U.S.C. §3406](#).
- Backup withholding only authorized when:
  - There are “reportable payments” AND.. . .
  - A “person” refuses to provide a TIN, and only in the case of “reportable payments”.
- A “reportable payment” is one connected with a “[trade or business](#)” (public office) in the U.S. government per [26 U.S.C. §6041\(a\)](#).
- A “nonresident alien” not engaged in a “trade or business”:
  - Can have no “reportable payments” per [26 U.S.C. §6041\(a\)](#).
  - Is not required to provide a TIN per 26 CFR §301.6109-1(b).
- Backup withholding of 31% of “reportable payments” that are connected with a “[trade or business](#)” per [26 CFR §31.3406\(a\)-1\(a\)](#).
- Earnings outside the “[United States](#)” (government) and not connected with a “[trade or business](#)” (public office in the U.S. government)
  - Are not “gross income” per 26 CFR §1.872-2(f).
  - Are not subject to withholding per 26 CFR § 31.3401(a)(6)-1.
- Nonresident aliens do not earn “[wages](#)” subject to withholding or levy per [26 U.S.C. §3401\(a\)\(6\)](#). Withholding is computed on “[wages](#)”, and not “total earnings”. You can only earn “wages” as legally defined if you consent by signing a voluntary contract per 26 CFR §31.3401(a)-3(a) and 26 CFR §31.3402(p)-1.
- Further Details: IRS Publication 515.

# Information Returns

- An “Information Return” reports receipt of “trade or business” earnings and connects the subject to an excise taxable activity
- The requirement for filing information returns originates from [26 U.S.C. §6041](#):

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

(a) Payments of \$600 or more

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

- Information returns include, but are not limited to, the W-2, 1042-S, 1098, 1099, and K-1
- Those who are not engaged in a “public office” should not have any information returns filed against them, which is most Americans
- False information returns filed by financial institutions and employers may be corrected. IRS publishes forms for doing this

# Information Returns (cont.)

- Providing a Social Security Number for use on Information Returns creates a “prima facie” presumption that you are engaged in a privileged “[trade or business](#)”:

**Box 14, Recipient’s U.S. Taxpayer Identification Number (TIN)**

***You must obtain and enter a U.S. taxpayer identification number (TIN) for:***

- ***Any recipient whose income is effectively connected with the conduct of a [trade or business](#) in the United States.***

**[IRS Form 1042-S Instructions, p. 14]**

# Information Returns: Uses

- **Lawful uses of information returns:**

- Associate with the government, in violation of the [First Amendment](#) prohibition against compelled association
- Procure its “protection”
- Pay for that “protection”
- Become a “[taxpayer](#)”

- **Unlawful uses of information returns:**

- Create or enforce any federal franchise, including a “trade or business” within the exterior limits of a state of the Union:

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



# Information Returns: Uses (cont.)

- Elect a formerly private person into “public office”, and especially without their consent. This is:
  - » Election fraud in violation of [18 U.S.C. §201](#)
  - » Impersonating an officer of the government in violation of [18 U.S.C. §912](#).
- Third parties donating associate private property with a public use, public purpose, or public office against your will and without your consent. This is THEFT.
  - » *“Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.”*  
*[Budd v. People of State of New York, 143 U.S. 517 (1892)]*
- Subsidize the evils of socialism against your will. See:
  - Socialism: The New American Civil Religion*, Form #05.016
  - FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>
  - DIRECT LINK: <http://sedm.org/Forms/MemLaw/SocialismCivilReligion.pdf>
- Promote and condone total lack of accountability on the part of your public servants, because THEY, and not YOU, decide how much gets taken out of your paycheck

# The “Tax Loop”

- Information Returns create a “prima facie presumption” that you are a “taxpayer” with “gross income” who is liable under the I.R.C.

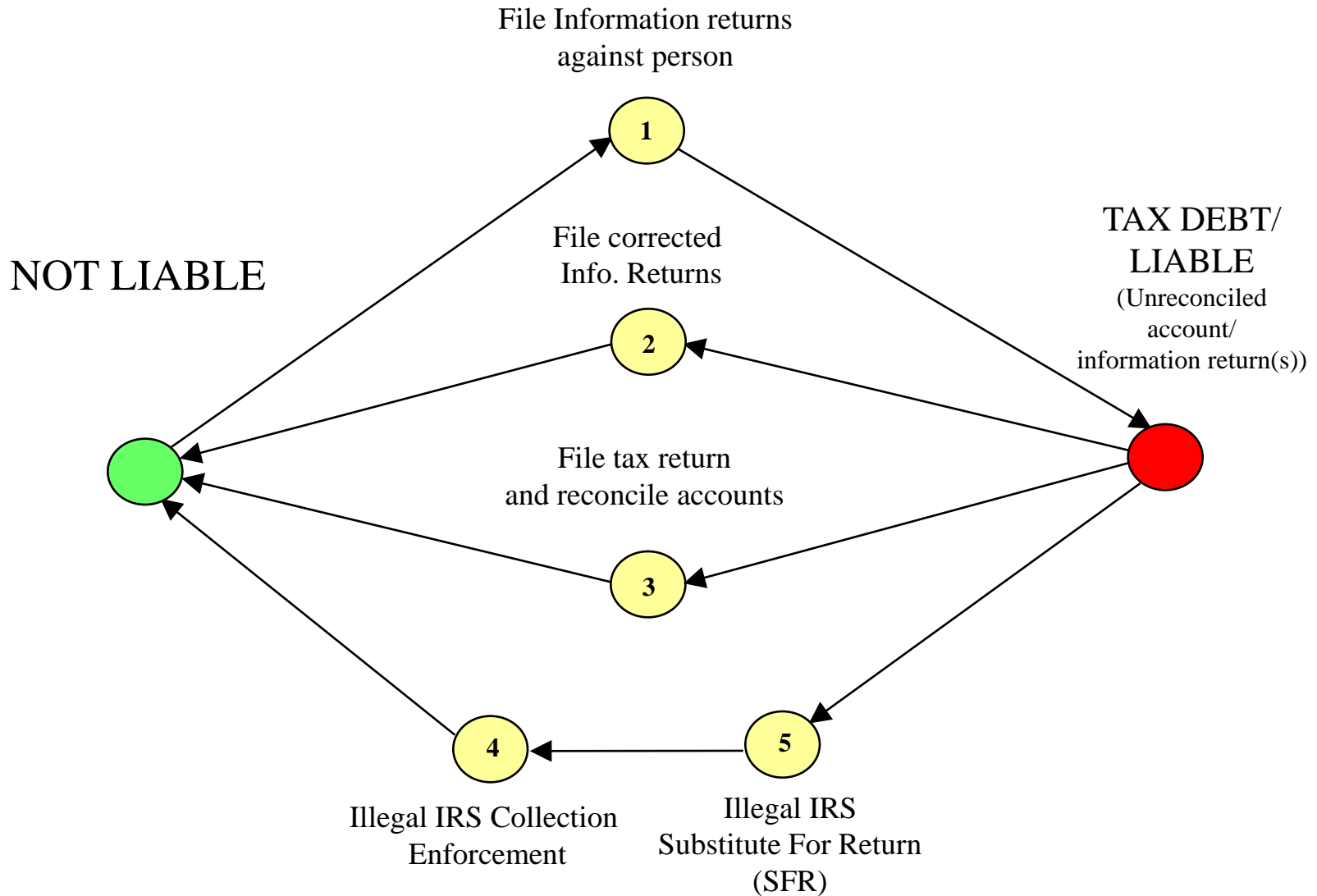
*“Prima facie evidence. Evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party’s claim or defense, and which if not rebutted or contradicted, will remain sufficient. Evidence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

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

[Black’s Law Dictionary, Sixth Edition, p. 1190]

- There are only three ways to discharge a “prima facie” tax liability:
  - Filing a tax return and balancing accounts is what removes that presumption of liability and restores you to no presumption of liability.
  - Filing corrected information returns
  - Allowing IRS to enforce payment through involuntary collections
- On the next page is how this process loop works

# The "Tax Loop"



# The “tax loop”: More Details

If you would like to know more about each specific numbered circle on the previous page, see:

## 2: Federal Response Letter Page, Section 4.2

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

## 3: Example Tax Return (which emphasizes “nontaxpayer” status)

<http://famguardian.org/TaxFreedom/Forms/IncomeTaxRtn/Federal/1040NRFedLetter.htm>

## 4: Illegal Collection Enforcement

- Why Penalties are Illegal for Anything but Federal Employees, Contractors, and Agents, Form #05.010

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

DIRECT LINK: <http://sedm.org/Forms/MemLaw/PenaltiesIllegal.pdf>

## 5: Illegal Substitute For Returns (SFRs)

- Cites By Topic: Substitute for Returns  
<http://famguardian.org/TaxFreedom/CitesByTopic/SubsForReturn.htm>
- Why the Government Can’t Lawfully Assess Human Beings with an Income Tax Liability Without Their Consent, Form #05.011

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

DIRECT LINK: <http://sedm.org/Forms/MemLaw/SFRsAssmtsIllegal.pdf>

# Correcting False Information Returns

- Financial Institutions and private employers frequently file false information returns against others
- We have procedures on how to correct erroneous information returns in the case of people who are not engaged in a “trade or business” or “public office”. These are available below:
  - *Correcting Erroneous Information Returns*, Form #04.001: Condenses the following four documents into one with additional information  
<http://sedm.org/Forms/FormIndex.htm>
  - *Correcting Erroneous IRS Form 1042's*, Form #04.003:  
<http://sedm.org/Forms/FormIndex.htm>
  - *Correcting Erroneous IRS Form 1098's*, Form #04.004:  
<http://sedm.org/Forms/FormIndex.htm>
  - *Correcting Erroneous IRS Form 1099's*, Form #04.005:  
<http://sedm.org/Forms/FormIndex.htm>
  - *Correcting Erroneous IRS Form W-2's*, Form #04.006:  
<http://sedm.org/Forms/FormIndex.htm>
- If you want to eliminate false W-2 reporting and remove false information return reporting against you in your private employment, the following free resources can also be very helpful:
  - *Federal and State Tax Withholding Options for Private Employers*, Form #09.001: Free book that completely describes laws on withholding and lawful options for “disconnecting from the matrix”  
<http://sedm.org/Forms/FormIndex.htm>
  - *Demand for Verified Evidence of “Trade or Business” Activity: Information Return*, Form #04.007: *educates private employers about Information Reporting and requires them to obey the tax laws*  
<http://sedm.org/Forms/FormIndex.htm>
  - *Federal Tax Withholding*, Form #04.102. Short handout to help educate private employers and financial institutions about federal tax withholding. For busy executives.  
<http://sedm.org/Forms/FormIndex.htm>
  - *Tax Withholding and Reporting: What the Law Says*, Form #04.103. Form you can give to private employers and financial institutions which briefly and succinctly educates them about what the law says on tax withholding and reporting. For busy executives.  
<http://sedm.org/Forms/FormIndex.htm>

# Correcting Specific False Information Returns

#	IRS Form Number	Form name	Filed concurrently with IRS Form Number	If false, may be corrected by
1	W-2	Wage and Tax Statement	W-3	4852 attached to a tax return W-2c and W-3c filed concurrently by “public employer”
2	1042-S	Foreign Person’s U.S. Source Income Subject to Withholding	Nothing	Re-filing with “AMENDED” block checked at the top
3	1098	Mortgage Interest Statement	1096	Re-filing with “CORRECTED” block checked at the top
4	1099-A	Acquisition or Abandonment of Secured Property	1096	Re-filing with “CORRECTED” block checked at the top
5	1099-B	Proceeds from Broker and Barter Exchange Transactions	1096	Re-filing with “CORRECTED” block checked at the top
6	1099-C	Cancellation of Debt	1096	Re-filing with “CORRECTED” block checked at the top
7	1099-H	Health Insurance Advance Payments	1096	Re-filing with “CORRECTED” block checked at the top
8	1099-INT	Interest Income	1096	Re-filing with “CORRECTED” block checked at the top
9	1099-LTC	Long Term Care and Accelerated Death Benefits	1096	Re-filing with “CORRECTED” block checked at the top

## Correcting Specific False Information Returns (cont)

#	IRS Form Number	Form name	Filed concurrently with IRS Form Number	If false, may be corrected by
10	1099-PATR	Taxable Distributions Received	1096	Re-filing with "CORRECTED" block checked at the top
11	1099-OID	Original Issue Discount	1096	Re-filing with "CORRECTED" block checked at the top
12	1099MISC	Miscellaneous Income	1096	Re-filing with "CORRECTED" block checked at the top
13	1099-Q	Payments from Qualified Education	1096	Re-filing with "CORRECTED" block checked at the top
14	1099-R	Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, Etc.	1096	4852 attached to a tax return Re-filing with "CORRECTED" block checked at the top
15	1099-S	Proceeds from Real Estate Transactions	1096	Re-filing with "CORRECTED" block checked at the top

## Identifying Numbers on Corrected Information Returns

- All information returns are computer scanned and processed
- Information Returns need an account number for the computer to process properly and reconcile the account
- If you submit a corrected information return, ensure that you clarify that the account number indicated on the form:
  - Is an **ACCOUNT NUMBER** or **NONTAXPAYER IDENTIFICATION NUMBER**. Electronically alter the form to change “SSN” to “Account number”.
  - **IS NOT** a Taxpayer Identification Number (TIN).
    - » Only “taxpayers” can be issued such a number.
    - » You are not a “taxpayer” if you are a nonresident alien not engaged in a “trade or business” as defined in [26 CFR §1.871-1\(b\)\(1\)\(i\)](#). Instead, your entire estate is “foreign” to the Internal Revenue Code pursuant to [26 U.S.C. §7701\(a\)\(31\)](#)
  - **IS NOT** an Individual Taxpayer Identification Number. [IRS form W-7](#) at the top says this number can ONLY be issued to “aliens”. A “nonresident alien” as defined in [26 U.S.C. §7701\(b\)\(1\)\(B\)](#) is not equivalent to an “alien” as defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#)
  - **IS NOT** a Social Security Number. Persons participating in this ministry must quit Social Security using the following:  
*[Resignation of Compelled Social Security Trustee](#), Form #06.002*  
<http://sedm.org/Forms/FormIndex.htm>



## Identifying Numbers on Corrected Information Returns

- You can call the number a “Nontaxpayer Identification Number” instead of a “Taxpayer Identification Number” if you followed the procedures in [26 CFR §301.6109-1\(1\)\(i\)](#), which says:

*“ . . .A person may establish a different [NONTAXPAYER] status for the number by providing proof of foreign status with the Internal Revenue Service...Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual’s social security number. . . ”*

[\[26 CFR §301.6109-1\(1\)\(i\)\]](#)

- You can also satisfy all the above requirements by simply attaching the following to your corrected information returns and use STANDARD instead of altered IRS forms:

Tax Form Attachment, Form #04.201

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

- **IMPORTANT:** Failure to include an account number on information returns will delay or even prevent processing of corrected information returns and could make you the target of illegal and unwarranted IRS collection actions which could be very time consuming and inconvenient to respond to

# ***EDUCATE Your Business Associates!***

- **The most frequent reason why private employers and companies file false information returns is because:**
  - They rely upon IRS advice, which is incomplete, frequently *deliberately false* and for which they can be penalized. See:  
*Reasonable Belief About Tax Liability*, Form #05.007  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/MemLaw/ReasonableBelief.pdf>
  - Their own legal ignorance and inability to understand legal subjects
  - No one ever showed them what the law says
  - They are too busy to read the law
  - They relied on a professional who has a conflict of interest instead of their own reading of the law
- **The best way to prevent erroneous information returns from being filed in the first place is to educate your business associates so they do it properly. This will prevent you from having to file corrected returns after the fact**
- **The best tool for educating private employers and companies about what the law says on information returns is the following form:**

*Demand for Verified Information of “trade or business” activity: Information Return*,  
Form #04.007  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/Tax/CorrErrInfoRtns/DmdVerEvOfTradeOrBusiness-IR.pdf>

# “wages”

- Legally defined in [26 U.S.C. §3401\(a\)](#)
- Legal definition supersedes, not enlarges, the commonly understood meaning
  - “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, page 581]
- Does NOT include ALL EARNINGS!
  - Compensation of nonresident aliens excluded: [26 U.S.C. §3401\(a\)\(6\)](#), [26 CFR §31.3401\(a\)\(6\)-1](#), [26 U.S.C. §861\(a\)\(3\)\(C\)\(i\)](#), [26 U.S.C. §1402\(b\)](#), [26 CFR §1.872-2\(f\)](#)
  - Pay of ministers are excluded: [26 U.S.C. §3401\(a\)\(9\)](#) and [26 U.S.C. §3121\(a\)\(8\)\(A\)](#)
  - Pay of those not engaged in a “trade or business” excluded. See: *The “Trade or Business” Scam*, Form #05.001  
<http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>
  - U.S. Supreme Court:  
*“We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup. Ct. 467, 62 L. Ed.--), the broad contention submitted on behalf of the government that all receipts—everything that comes in—are income within the proper definition of the term ‘gross income,’ and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term “income’ has no broader meaning in the 1913 act than in that of 1909 (see Stratton’s Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup. Ct. 136), and for the present purpose we assume there is not difference in its meaning as used in the two acts.”*  
[Southern Pacific Co., v. Lowe, [247 U.S. 330](#), 335, 38 S.Ct. 540 (1918)]

# “wages”

- “wages” appearing on IRS form W-2 documents receipt of privileged earnings from a “[trade or business](#)” or a “public office”, as defined in [26 U.S.C. §7701\(a\)\(26\)](#).
  - IRS form W-4 is an “information return”
  - “Information Returns” ONLY document receipt of “trade or business” earnings and NOT ALL earnings. [26 U.S.C. §6041](#)
- You cannot earn “[wages](#)” as legally defined unless you:
  - Are engaged in a “[trade or business](#)” . . .OR
  - Have volunteered to connect your earnings to a “[trade or business](#)” by voluntarily signing and submitting IRS form W-4 pursuant to [26 U.S.C. §3402\(p\)](#), [26 CFR §31.3401\(a\)-3\(a\)](#) , and [26 CFR §31.3402\(p\)-1\(a\)](#)
- It is “[wages](#)”, and not ALL “earnings” that appear in a person’s [Individual Master File \(IMF\)](#) as “taxable income”
- Earnings constitute “property” and the income tax is not a [direct tax](#) on “property”, but an [indirect tax](#) on “privileged” activities

*“As repeatedly pointed out by this court, the Corporation Tax Law of 1909..imposed an excise or privilege tax, and not in any sense, a tax upon property or upon income merely as income. It was enacted in view of the decision of Pollock v. Farmer’s Loan & T. Co., 157 U.S. 429, 29 L. Ed. 759, 15 Sup. St. Rep. 673, 158 U.S. 601, 39 L. Ed. 1108, 15 Sup. Ct. Rep. 912, which held the income tax provisions of a previous law to be unconstitutional because amounting in effect to a direct tax upon property within the meaning of the Constitution, and because not apportioned in the manner required by that instrument.”*

*[U.S. v. Whiteridge, [231 U.S. 144](#), 34 S.Sup. Ct. 24 (1913)]*

# You can only earn “wages” if you volunteer to!

- [26 U.S.C. §3401\(a\)](#) defines “[wages](#)”
- The definition excludes “fees paid to a public official”  
[TITLE 26](#) > [Subtitle C](#) > [CHAPTER 24](#) > § 3401  
§ 3401. Definitions  
(a) **Wages** For purposes of this chapter, the term “wages” means all remuneration (**other than fees paid to a public official**) for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include remuneration paid—
- Pursuant to [26 U.S.C. §6041](#), the term “[wages](#)” as indicated on the IRS form W-2 documents receipt of earnings connected with a “[trade or business](#)”, which is defined as “the functions of a [public office](#)”
- Therefore:
  - Only those engaged in a “public office” earn “[wages](#)” as legally defined. This is confirmed by the W-2, which documents receipt of “wages” and which can only be filed in connection with a “trade or business” pursuant to [26 U.S.C. §6041](#).
  - The only way a private person **NOT** engaged in a “public office” can earn “[wages](#)” as legally defined and as documented on a W-2 is to **volunteer** or agree under contract to call them “[wages](#)”
  - The process of “volunteering” to call them “[wages](#)” is called an “agreement” in [26 U.S.C. §3402\(p\)](#), [26 CFR §31.3401\(a\)-3\(a\)](#) , and [26 CFR §31.3402\(p\)-1\(a\)](#)

# You can only earn “wages” if you volunteer to!

- [26 CFR §31.3402\(p\)-1](#)

- Title 26: Internal Revenue

- [PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)  
[Subpart E—Collection of Income Tax at Source](#)

- [Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

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

- (b) *Form and duration of agreement*

- (2) *An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.*

# You can only earn “wages” if you volunteer to!

- **26 CFR §31.3401(a)-3(a)**

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

- (a) *In general.* **Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term “wages” includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p).** References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).
- (b) *Remuneration for services.* (1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)-1 and 31.3401(d)-1 for the definitions of “employee” and “employer”.

# ***IRS Form W-4 FRAUD***

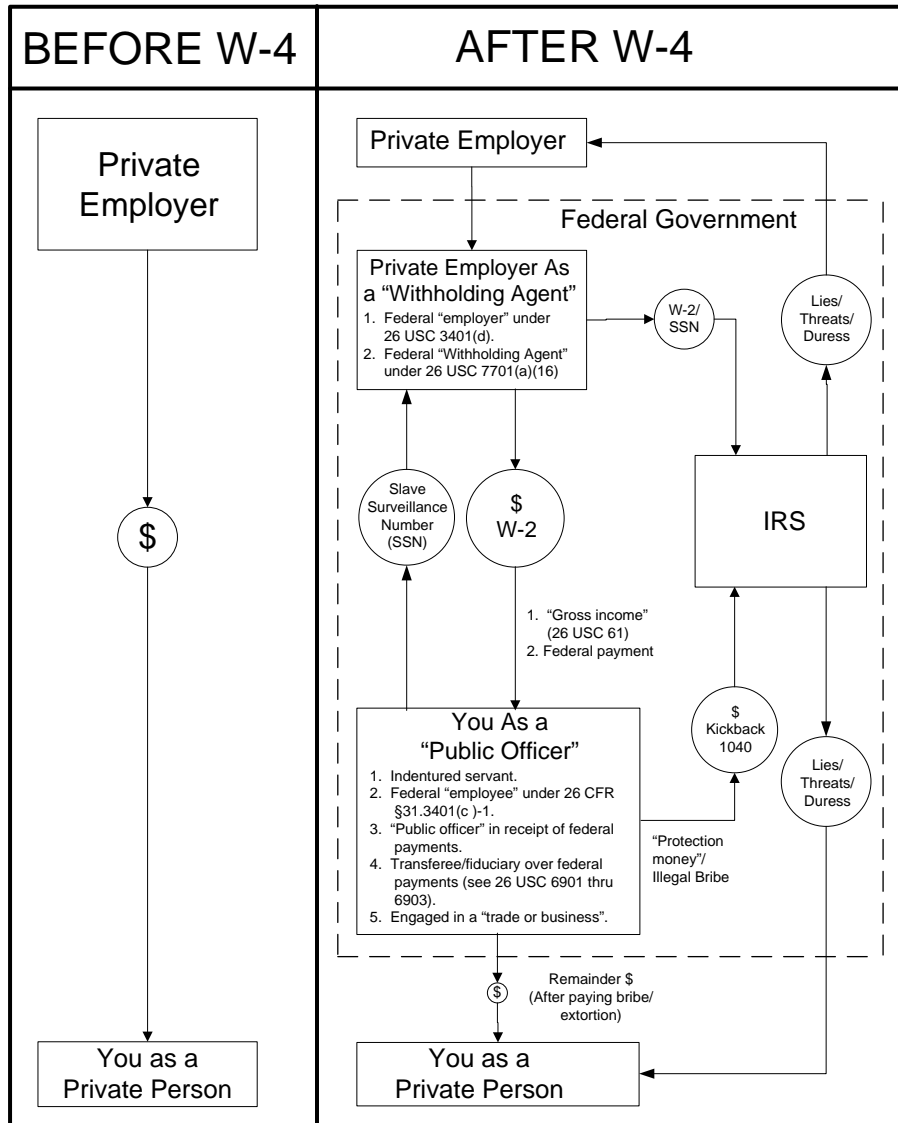
- **Based on the previous slides, the IRS form W-4 is:**
  - A voluntary agreement (e.g. CONTRACT)
  - An agreement to become a subcontractor to the federal government
  - An agreement to turn your PRIVATE employment into PUBLIC employment
- **You cannot be FORCED to sign the W-4 contract**
- **The IRS DECEIVES THOSE WHO USE THIS FORM by not calling it a “CONTRACT” or “AGREEMENT” anywhere on the form or the instructions for the form. Instead, the title of the form is:**
  - “Employee Withholding Allowance Certificate”
- **Who is doing the “Allowing”?**  
**IT’S YOU!**
- **If you don’t ALLOW it, then**
  - Anyone who takes anything out of your pay against your will can and SHOULD be prosecuted for THEFT
  - Even if the IRS tells the employer to withhold at “SINGLE ZERO” in the case of those who do not voluntarily submit IRS form W-4, there is NOTHING to withhold because “wages” are ZERO for a person for does not voluntarily submit IRS FORM W-4



# IRS Form W-4

- Described as an “agreement” in [26 U.S.C. §3402\(p\)](#), [26 CFR §31.3401\(a\)-3\(a\)](#), and [26 CFR §31.3402\(p\)-1](#)
- Submission is voluntary and cannot be coerced. Private companies cannot refuse to hire you or threaten to fire you if you refuse to sign. See:
  - [26 U.S.C. §3402\(p\)](#)
  - [26 CFR §31.3402\(p\)-1\(a\)](#)
- Signing this form voluntarily makes the subject:
  - A federal “[employee](#)”
  - A person engaged in a privileged “[trade or business](#)” and a “[public office](#)”
  - A “[taxpayer](#)” subject to the I.R.C. under [26 U.S.C. §7701\(a\)\(14\)](#)
- If submitted under duress, then:
  - All information returns submitted based on it are false and can be corrected using an IRS form W-2C or form 4852. See:
    - [Correcting Erroneous IRS Form W-2's](#), Form #04.006
    - <http://sedm.org/Forms/FormIndex.htm>
  - All tax liability resulting from information returns filed in connection with it is unlawful
    - “An agreement [consent] 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. 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, and it is susceptible of ratification. Like other voidable contracts, it is valid until it is avoided by the person entitled to avoid it. 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.”*
    - [American Jurisprudence 2d Legal Encyclopedia, Duress, Section 21]*
- **DO NOT** use the W-4 EXEMPT! It is the **WRONG FORM** to stop withholding for nonresident aliens! Use the AMENDED version of the W-8BEN available at:
  - [About IRS Form W-8BEN](#), Form #04.202
  - FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>
  - DIRECT LINK: <http://sedm.org/Forms/Tax/Withholding/W-8BEN/AboutIRSFormW-8BEN.htm>

# What the W-4 Does to Your Status



# I.R.C. Section 83 Deductions

- The labor of a human being is “property” according to the U.S. Supreme Court

*“Every man has a natural right to the fruits of his own labor, is generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will...”*

*[The Antelope, [23 U.S. 66](#); 10 Wheat 66; 6 L.Ed. 268 (1825)]*

*"The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. ... to hinder his employing this strength and dexterity in what manner he thinks proper without injury to his neighbor, is a plain violation of this most sacred property."*

*[[U.S. Supreme Court in Butcher's Union v. Crescent City 111 U.S. 746 \(1884\): \]](#)*

- [I.R.C. Subtitle A](#):
  - Is an [indirect excise tax](#) upon “profit” connected with a privileged “[trade or business](#)”
  - Is NOT a [direct tax](#) upon any kind of “property”
  - Is NOT a tax on “labor”, which is property, because this would be slavery and involuntary servitude in violation of the [Thirteenth Amendment](#), [42 U.S.C. §1994](#), and [18 U.S.C. §1589](#)

# ***I.R.C. Section 83 Deductions***

- Because **I.R.C. Subtitle A** is an indirect excise tax upon PROFIT and not PROPERTY, then all earnings which constitute “property” are deductible in computing “**gross income**” pursuant to **26 U.S.C. §83**.
- The amount of the deduction is the ENTIRE Fair Market Value (FMV) of your personal labor
- The I.R.S. has carefully hidden this deduction from you in their publications and their forms
- If you would like to learn how to apply this lawful deduction on your tax return, see:

***How the Government Defrauds You Out of Legitimate Deductions for the Market Value of Your Labor***, Form #05.026

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

# IRS Form W-2

- Reports “[wages](#)” as legally defined and NOT as commonly understood
- Reports only earnings connected with a “[trade or business](#)”, as required by [26 U.S.C. §6041\(a\)](#)
- A person *not* engaged in a “[trade or business](#)” or “[public office](#)” does not earn “[wages](#)” as legally defined in [26 U.S.C. §3401](#) unless they volunteer by voluntarily sign and submit a W-4 and put other than “exempt” on it
- A company that withholds on a person not engaged in a “public office” and who refuses to sign or submit a W-4:
  - Cannot lawfully withhold anything on a W-2, even if told to withhold at single zero by the IRS, because he earns no “wages”
  - Cannot report anything other than “0” for “wages, tips, and other compensation”
- A person who violates the above rules is liable under [26 U.S.C. §7434](#) for the greater of:
  - \$5,000
  - Attorneys fees and costs and illegally collected taxes caused by false information returns
- Unlike [IRS Form 1099](#), the W-2 form does not have a “CORRECTED” block at the top. Must be corrected with:
  - IRS form 4852 attached to a tax return
  - Refiling IRS form W-2C

# IRS Form W-2

- Submitted in combination with IRS form W-3. W-3 summarizes all W-2's filed by a "public employer"
- Corrected using IRS Form W-2c, which is submitted along with IRS Form W-3c
- To educate companies about legal requirements for W-2 reporting and withholding with a simple form, see:  
*Tax Withholding and Reporting: What the Law Says*, Form #04.103  
<http://sedm.org/Forms/FormIndex.htm>
- For details on how to correct an erroneous form W-2 filed against you, see:  
*Correcting Erroneous IRS Form W-2's*, Form #04.006  
<http://sedm.org/Forms/FormIndex.htm>

# IRS Form 1099

- Used for payments exceeding \$600 to persons who are not “employees”
- Reports only “[trade or business](#)” earnings:
  - [26 U.S.C. §6041](#) says this
  - The forms instructions say this
- If the form is filed incorrectly against you, then you can:
  - Make a new corrected one
  - Check the “corrected” block at the top
  - File with the local IRS Service Center
- Submitted in combination with IRS Form 1096. IRS Form 1096 summarizes all 1099’s submitted by company acting as “public office”
- Corrected by refile and checking “CORRECTED” block at top and possibly also providing IRS Form 1096
- For details on how to correct an erroneous form 1099 filed against you, see:  
*[Correcting Erroneous IRS Form 1099’s](#)*, Form #04.005  
<http://sedm.org/Forms/FormIndex.htm>

# IRS Form 1042-S

- Used only for “nonresident aliens”
- Reports only earnings connected with a “trade or business”, as required by 26 U.S.C. §6041(a)
- Taxable earnings on this form are called “gross income”. Gross income is defined in 26 U.S.C. §61
- If you are not a “taxpayer”, you should not have this form filed against you
- Like the 1099 form, the form has a “AMENDED” check box at the top that can be used to zero it out if the report was incorrect
- Corrected by refileing and checking “AMENDED” block at top
- For details on how to correct an erroneous form 1099 filed against you, see:

*Correcting Erroneous IRS Form 1042's*, Form #04.003

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



# IRS Form 1098

- Used only for those paying mortgage interest to a mortgage company in the District of Columbia and not a state of the Union
- Relates only to real property located in the District of Columbia (“United States”) pursuant to [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10)
- Reports only earnings connected with a “trade or business”, as required by [26 U.S.C. §6041\(a\)](#)
- If you are not a “[taxpayer](#)”, you should not have this form filed against you
- Like the 1098 form, the form has a “AMENDED” check box at the top that can be used to zero it out if the report was incorrect
- Corrected by refileing and checking “AMENDED” block at top
- For details on how to correct an erroneous form 1098 filed against you, see:

*Correcting Erroneous IRS Form 1098’s*, Form #04.004

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

- We have a sample response to state collection notices based on these false reports in our Forms page:

*1098 Interest: Request for Filing Response*, Form #07.108:

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

# Filling Out Government Forms

- **NEVER, EVER commit perjury or lie on a government form:**
  - Committing perjury on government forms is a serious offense:
    - » [26 U.S.C. §7206](#) makes fraud on a government form punishable with up to 3 years in jail and up to a \$100,000 fine.
    - » [18 U.S.C. §1621](#) makes perjury punishable by up to five years in jail and a fine.
  - The purpose of showing you what the law says is to prevent, not encourage, fraud on government forms
- **Government forms contain TRAPS designed to create presumptions that will prejudice your rights or which cause you to commit perjury under penalty of perjury if you submit the form as is. Watch out for “words of art” like:**
  - “taxpayer”. See: <http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm>
  - “Individual”. See: <http://famguardian.org/TaxFreedom/CitesByTopic/individual.htm>
  - “Beneficial Owner”. See: <http://famguardian.org/TaxFreedom/CitesByTopic/BeneficialOwner.htm>
  - “Permanent Address”. See: <http://sedm.org/Forms/MemLaw/Domicile.pdf>
  - “United States”. See: <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm>
- **If you want a thorough description of “words of art”, see:**
  - [Great IRS Hoax](#), Form #11.302, sections 3.9.1 through 3.9.1.27  
<http://sedm.org/Forms/FormIndex.htm>
  - [Sovereignty Forms and Instructions Online, Form #10.004](#), Cites by Topic:  
<http://sedm.org/Forms/FormIndex.htm>

# Filling Out Government Forms

- **WARNING:** The IRS [Internal Revenue Manual, Section 1.1.1.1](#) says the IRS mission is to help “[taxpayers](#)”. If you’re a “nontaxpayer”, then you **can’t** use any of their forms and must work around this to ensure that you aren’t mistaken for a “taxpayer”. To see the difference between
- There are three options for filling out government forms as a “[nontaxpayer](#)” to avoid committing perjury or encouraging [false presumption](#) about your status:
  1. Use the AMENDED forms on Family Guardian:  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>
  2. Modify the forms to correct false presumptions about your status using the instructions contained in section 1 below:  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>
  3. Use STANDARD IRS forms off the IRS website and attach the following form:  
*Tax Form Attachment*, Form #04.201  
<http://sedm.org/Forms/FormIndex.htm>
- The easiest method is option 3 above, and this option really puts them in a bind.
- If you want to know the difference between a “taxpayer” and a “nontaxpayer”, see:
  - *Who are "taxpayers" and who Needs a "Taxpayer Identification Number"?*, Form #05.013  
<http://sedm.org/Forms/FormIndex.htm>
  - *Your Rights as a "Nontaxpayer"*, Form #08.008, Item 6.8, IRS form  
<http://sedm.org/LibertyU/LibertyU.htm>

# ***Backup Withholding***

- Backup withholding is documented in [26 U.S.C. §3406](#) and [26 CFR §31.3406-0 through 26 CFR §31.3406\(j\)-1](#)
- Backup withholding is ***only*** required if the party:
  - Is involved in a “trade or business” (public office in the U.S. government)  
AND
  - Has “reportable payments”
- A “reportable payment” is defined as a payment that is “effectively connected with a trade or business” (public office) in the United States government in accordance with:
  - [26 U.S.C. §3406\(b\)](#)
  - [26 U.S.C. §6041](#)
  - [26 U.S.C. §6049](#) in the case of interest payments
  - [26 U.S.C. §6042](#) in the case of dividend payments
  - [26 U.S.C. §6044](#) in the case of patronage dividends
- Backup withholding is ***specifically prohibited***:
  - On reportable payments that qualify for the documentary evidence rule found in [26 CFR §1.6049-5\(c\)\(1\)](#) or (4)
  - For amounts already subject to withholding of 30%

# Preventing/Stopping Backup Withholding

- Submitting an IRS form W-8BEN to a withholding agent causes them to not be able to withhold:

*“Foreign persons who provide Form W-8BEN, Form W-8ECI, or Form W-8EXP (or applicable documentary evidence) are exempt from backup withholding and Form 1099 reporting.”*

[\[IRS Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities Year 2006, p. 4\]](#)
- The phrase “(or applicable documentary evidence)” above also covers the following form we prefer over the W-8BEN:

*Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.002

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

DIRECT LINK: <http://sedm.org/Forms/Affidavits/AffCitDomTax.pdf>
- If you are a nonresident alien or “foreign person”, DO NOT use the standard IRS form W-8BEN because it contains “words of art” that will prejudice your status and make you look like a “taxpayer”. Instead use either of the following:
  - AMENDED IRS form W-8BEN. See:

*About IRS form W-8BEN*, Form #04.202

<http://sedm.org/Forms/FormIndex.htm>
  - *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001

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

# ***Withholding/Reporting on IRA Accounts***

- **[26 U.S.C. §408](#)** authorizes IRA accounts
- **[26 U.S.C. §3405](#)** governs withholding on IRA accounts
- According to the above section, withholding on retirement accounts is **VOLUNTARY**. See:
  - **[26 U.S.C. §3405\(a\)\(2\)](#)**
  - **[26 U.S.C. §3405\(b\)\(2\)](#)**
- Elections to ***not*** withhold may **NOT** be made in the following cases:
  - Failure to provide TIN per **[26 U.S.C. §3405\(e\)\(12\)](#)**
  - Distributions made outside the United States to Nonresident aliens may not have withholding stopped by election of the account holder, pursuant to **[26 U.S.C. §3405\(e\)\(13\)](#)**.
- **Withholding is:**
  - 10% on nonperiodic distributions per **[26 U.S.C. §3405\(b\)\(1\)](#)** if an election is made
  - 20% on rollover distributions per **[26 U.S.C. §3405\(c\)\(1\)\(B\)](#)**
- **Withdrawals reported on IRS Form 1099-R**
- **To lawfully avoid reporting and withholding for withdrawal, use:**  
***IRA Closure Request: Nontaxpayer***, Form #04.216  
**<http://sedm.org/Forms/FormIndex.htm>**

# Precious Metal Transactions

- Tax reporting done using IRS Form 1099-B
- Only “brokers” need to report. IRS Form 1099-B instructions say a “broker” is one engaged in a “trade or business”
- You cannot be a “broker” without either a domicile on federal territory or representing an instrumentality of the government that has a domicile on federal territory.
- Those not lawfully engaged in a public office (“trade or business”) within the U.S. government are not subject to Form 1099B reporting.
- For background on precious metal transaction reporting, see:  
*Precious Metal Transaction Reporting*, Form #04.106  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/Tax/Procedure/PreciousMetalRptng.pdf>

# Currency Transaction Reporting (CTR)

- Transactions involving cash connected to a “[trade or business](#)” in amounts greater than or equal to \$10K are reported on following forms:
  - [Fincen Form 103](#)
  - [Fincen Form 104](#)
  - [Fincen Form 8300](#)
  - [IRS Form 8300](#)
- Reporting requirement originates from 31 U.S.C. §5331:  
[TITLE 31](#) > [SUBTITLE IV](#) > [CHAPTER 53](#) > [SUBCHAPTER II](#) > § 5331  
[§ 5331. Reports relating to coins and currency received in nonfinancial trade or business](#)
  - (a) *Coin and Currency Receipts of More Than \$10,000.—Any person—*
    - (1) *who is engaged in a trade or business; and*
    - (2) *who, in the course of such trade or business, receives more than \$10,000 in coins or currency in 1 transaction (or 2 or more related transactions), shall file a report described in subsection (b) with respect to such transaction (or related transactions) with the Financial Crimes Enforcement Network at such time and in such manner as the Secretary may, by regulation, prescribe.*



# Currency Transaction Reporting (CTR)-continued

- Those not engaged in a “[trade or business](#)” AND a public office in the U.S. government, which includes most Americans, are expressly EXEMPTED from the reporting requirement per 31 CFR §103.30(d)(2).

[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.*

- “[trade or business](#)” uses same definition as [26 U.S.C. §162](#) per [31 CFR §103.30\(11\)](#).
- It is a crime of a public officer but NOT a private person to avoid or evade this reporting requirement per [31 U.S.C. §5324](#)
- To prevent the filing of a false CTR against those not engaged in public offices in the U.S. government, use:

*Demand for Verified Evidence of “trade or business” Activity: Currency Transaction Report (CTR), Form #04.008*

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

# Real Estate Sales

- Real Estate sales are covered in [26 U.S.C. §897](#)
- When you sell a house, escrow companies will:
  - Send you a package, including a title commitment. They will commit to receive your money, clear the title, etc. This opens escrow.
  - Buyer deposits money in bank within three weeks usually
  - During the first three weeks, you get HUD-1 form, which they are required to have if there was an illegal kickback. You don't have to sign that form, unless you are a borrower. If you are a borrower, you have no rights not to sign it. If you are a SELLER, you have no obligation to sign this form. Instead, ask for standard selling statement, because SELLER is not a lender or a borrower
  - Escrow company will present SELLER with a FIRPTA (Federal Investment in Real Property Transfer Act) form statement in order to connect him to the federal zone and federal franchises. This form is only required for "U.S. Real Property", where "U.S." is the District of Columbia as defined in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and if not filled out, they cannot submit IRS form W-9 or do any withholding
  - If you provide them with the form or consent to sign it, they will try to do withholding under the act on 10% of the proceeds from real property pursuant to [26 U.S.C. §1445](#). They will try to indicate that this section requires the BUYER (transferee) to do the withholding
  - If you provide them with the form or consent to sign it , they will fill out an IRS form 1099-S on the sale proceeds so that you have to pay taxes on the sale proceeds, even if you don't owe them as a person not engaged in the "[trade or business](#)" excise taxable franchise.

# ***Real Estate Sales (cont)***

- Seller provides affidavit replacing the IRS form W-9 to escrow company saying a nontaxpayer without a number, liabilities, etc.
- If BUYER will not allow SELLER to proceed without withholding against proceeds to SELLER, then SELLER can:
  - » Tell BUYER that sale will not close and lose earnest money
  - » Can offer to draft a agreement to assume all liability for failure to withhold, if necessary (not usually required)
- **Title company role:**
  - Ask you to fill out forms
  - Ask for identifying numbers
  - At no time do the buyer or seller contract to allow the escrow company to withhold any amount. Title company cannot withhold your money unless you are a person they are required to withhold from. That belief is based on submission of the FIRPTA form and the IRS form W-9

# Real Estate Sales (cont)

- The filling out of the FIRPTA form is NOT required if:
  - Your real property is not located anywhere within the U.S., which is the “federal zone” . . .AND
  - You are a “nontaxpayer” not subject to the Internal Revenue Code. . .AND
  - You are a “nonresident alien” not engaged in a “trade or business” as defined in 26 CFR §1.871-1(b)(1)(i) whose estate is a “foreign estate” as defined in 26 U.S.C. §7701(a)(31)
- For details on FIRPTA withholding, see
  - The IRS website: FIRPTA  
<http://www.irs.gov/businesses/small/international/article/0,,id=105000,00.html>
  - IRS Website: Taxes on Real estate  
<http://www.irs.gov/businesses/small/international/article/0,,id=129631,00.html>
  - FIRPTA.COM: <http://www.firpta.com/>
  - FIRPTA: <http://www.wvlaw.com/firpta.htm>

# Real Estate Sales (cont)

- To lawfully avoid 10% withholding and submission of the IRS 1099-S form by the escrow company:
  - Provide escrow company with an affidavit stating that:
    - » Your property is not located in the “[United States](#)” as defined in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10)
    - » You are a nonresident alien not engaged in a “[trade or business](#)” as defined in [26 CFR §1.871-1\(b\)\(1\)\(i\)](#) who is a nontaxpayer
    - » You do not have an identifying number to provide
  - Do NOT provide an IRS form W-9. This form is for use ONLY by “[taxpayer](#)” engaged in a “[trade or business](#)” and subject to the I.R.C. If you provide this form, they will attempt to withhold 33% of the sale proceeds.
  - Insist that they give you all paperwork to sign. In the paperwork:
    - » Do not declare yourself as a *statutory* “[U.S. citizen](#)” which is defined in [8 U.S.C. §1401](#) as a person domiciled in the federal zone. A person domiciled in a state of the Union is NOT a *statutory* “[U.S. Citizen](#)” but rather a “national” as defined in [8 U.S.C. §1101\(a\)\(21\)](#). They are *constitutional* but not *statutory* “citizens” pursuant to federal law
    - » Do not declare yourself a “[resident](#)”, which is defined in [26 U.S.C. §7701\(b\)\(1\)\(A\)](#) as an “[alien](#)” with a [domicile](#) in the federal zone
    - » Identify yourself as a nonresident alien not engaged in a “[trade or business](#)” as defined in [26 CFR §1.871-1\(b\)\(1\)\(i\)](#)
    - » Do not provide any identifying number and state that you do not have one. The only persons who can be compelled to use them are “[taxpayers](#)”, which you are not because not subject to the I.R.C.
  - Do not show up at closing, in order to avoid surprises. Conduct EVERYTHING by correspondence

# Real Estate Sales (cont)

- If you want a set of forms that implement all of the previous information into one convenient package, see:
  - *Seller's Escrow Closing Affidavit*, Form #04.212  
<http://sedm.org/Forms/FormIndex.htm>
  - *IRS Form 1099-S Substitute*, Form #04.308  
<http://sedm.org/Forms/FormIndex.htm>
  - *FIRPTA Questionnaire*, Form #04.214-use this if the escrow company argues with you.  
<http://sedm.org/Forms/FormIndex.htm>
  - *1099-S Input Form*, Form #04.213  
<http://sedm.org/Forms/FormIndex.htm>
  - *Notice and Demand to Correct False IRS Form 1099-S*, Form #04.403-use if escrow company won't close sale without 1099-S. Send AFTER the sale  
<http://sedm.org/Forms/FormIndex.htm>
- For further information about Real Estate tax withholding and reporting that you can use to educate yourself and the escrow company, see:
  - *Income Taxation of Real Estate Sales*, Form #05.28-legal memorandum  
<http://sedm.org/Forms/FormIndex.htm>
  - *IRS Form 1099-S Information Return Reporting Requirements*, Form #04.104  
<http://sedm.org/Forms/FormIndex.htm>

# ***Withholding/Reporting on Church Ministers***

- The following authorities say that church ministers don't earn reportable "[wages](#)":
  - [26 U.S.C. §3401\(a\)\(9\)](#): Income tax
  - [26 U.S.C. §3121\(a\)\(8\)\(A\)](#): FICA
- Even if the minister refuses to sign a W-4 and the church is told to withhold at "single-zero":
  - Withholding must be on "[wages](#)" and NOT on all earnings
  - Since they earn no "[wages](#)", there is nothing to withhold or report on a W-2
- Ministers may elect to file a W-4, which makes their earnings reportable "[wages](#)" and subjects them to withholding anyway
- Ministers qualify for an exemption from Social Security (FICA) deductions by:
  - Completing IRS Form 4361 if a member of a religious order
  - Completing [IRS Form 4029](#) if a member of a religious sect
  - Submitting it to IRS, getting approved, and receiving approved form back
- Ministers who are not nonresident aliens do not qualify for exemption from Social Security
- Ministers get a housing allowance which:
  - Is deducted from their reportable "[wages](#)" on the W-2
  - Is negotiated at the beginning of the year with the church board

# ***Withholding/Reporting on Church Ministers***

- **For further details, see:**
  - **IRS Publication 1828: Tax Guide for Churches and Religious Organizations**  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub1828.pdf>
  - IRS Publication
  - **IRS Publication 517: Social Security and Other Information for Members of the Clergy and other Religious Workers**  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSPub517.pdf>
  - **IRS Market Segment Specialization Program: Audit Guide for Ministers**  
<http://famguardian.org/Subjects/Spirituality/ChurchTaxation/IRS-MSSP-minister.pdf>
  - **IRS Website: Annual Exempt Organization Information Returns**  
<http://www.irs.gov/charities/charitable/article/0,,id=123308,00.html>
  - **IRS Website: Application for Recognition of Exemption**  
<http://www.irs.gov/charities/article/0,,id=96109,00.html>
  - **The Ministers and Missionaries Benefit Board: Tax Guide for Ministers Filing Returns**  
<http://www.mmbb.org>



# Why IRS Enforcement is Lawful Against “Public Employees”/“Public Officers”

- “Public employees” have no Constitutional rights:

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

*[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]*

- Those engaged in a “trade or business” hold a “public office” and are therefore “public employees”. See 26 U.S.C. §7701(a)(26) and :

Why Your Government is Either A Thief or You Are a “Public Officer” for federal Income Tax Purposes (Form #05.008)

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

## Why IRS Enforcement is Lawful Against “Public Employees”/“Public Officers”

- “Public property” managed by public employees in the conduct of their duties belongs to the U.S. government
  - *“Men are endowed by their Creator with certain unalienable rights,-life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit; second, that **if he devotes it to a public use, he gives to the public a right to control that use;** and third, that whenever the public needs require, the public may take it upon payment of due compensation.”*  
[Budd v. People of State of New York, [143 U.S. 517](#) (1892)]
- The method by which the public controls private property donated to a “public use” is through the Internal Revenue Code

## ***What to Do if “Withholding Agent” Won’t Accept Your Withholding Forms***

If your business associates will not accept your withholding forms, the following options are available:

- Give them the proper forms immediately **AFTER** the transaction is complete, if it is a one-time event. Deliver via certified mail with a *Certificate of Service*, Form #01.002. Keep the certified mail green card as legal evidence.
- Submit corrected information return **AFTER** the transaction per:
  - *Correcting Erroneous Information Returns*, Form #04.001  
<http://sedm.org/Forms/FormIndex.htm>
- If there was withholding, submit one of the following along with corrected information returns to request all the unlawfully withheld and reported monies back:
  - *Federal Nonresident Nonstatutory Claim for Return of Funds Unlawfully Paid to the Government*, Form #15.001  
<http://sedm.org/Forms/FormIndex.htm>
  - An IRS form 1040NR with the following forms attached and “NONE” written in the SSN/TIN field:
    - » *Tax Form Attachment*, Form #04.201  
<http://sedm.org/Forms/FormIndex.htm>

# ***Legal Remedies for False Information Returns***

- **If a private employer or financial institution has been notified that it has filed false information returns against you, then the legal remedies documented on this may be appropriate**
- **Procedure**
  - **Approach them about the mistake either in the presence of a witness or by certified correspondence delivered by a neutral third party**
  - **Have the witness either sign a notarized affidavit or a Certificate of Service documenting the sending or receiving of correspondence from the private employer or financial institution**
  - **If the private employer or financial institution refuses to correct the false information return, you have legally admissible evidence from a neutral third party that they have been warned of their violation of law**
  - **Next, file a claim in state or federal court as indicated in the next step and use the evidence gathered above.**

# Legal Remedies for False Information Returns

- **Claims in court are as follows:**
  - **Fraudulent Information Returns:** If you have evidence proving that they were willfully preparing false returns because you warned them and they refused to change, you can:
    - » Prosecute them for civil fraud in federal court under [26 U.S.C. §7434](#). Sue them for attorneys fees and all wrongful taxes collected or resulting from the false information returns and associated withholding
    - » File a criminal complaint against the institution with the United States Department of Justice pursuant to:
      - [18 U.S.C. §1956: Money Laundering](#). They are laundering stolen money for the federal government. It is stolen because it was collected without the authority of law.
      - [26 U.S.C. §7206\(1\): Fraud and False Statements](#). In connection with false IRS forms 1096, W-3, or W-3c which are signed under penalty of perjury by the submitter
      - [26 U.S.C. §7207: Fraudulent returns, statements, or other documents](#). For filing of false information returns. Information returns are “returns” as defined in this statute
      - [18 U.S.C. §1621: Perjury](#). They committed perjury on the information returns they filed fraudulently
  - **False but not Fraudulent Information Return:** If you have no evidence (affidavits, certificates of service, witnesses) proving that you notified them of their violation of law, the information return is simply false but not fraudulent. The injury is a mistake but not a malicious act. Your legal recourse is to sue the payroll clerk or reporting agent within the institution as a private party in equity in a state court for damages in connection with the false return. If it is a private employer, avoid suing the employer, but sue the payroll clerk personally and privately to avoid getting fired. These damages would include:
    - » Monies wrongfully withheld from your pay
    - » All penalties and other federal tax liabilities wrongfully resulting from the false information returns
    - » Attorneys fees and costs resulting from the legal action to protect your rights to property.

## ***How Illegal or Unnecessary Withholding is Abused to Unlawfully Recruit More “Taxpayers”***

- **Withholding is not necessary for “nontaxpayers” but the IRS tells everyone who asks them to withhold in EVERYONE**
- **At the end of the year, the “nontaxpayer” is compelled to file a tax return to get a refund of the unlawfully withheld earnings**
- **The IRS tries to compel “nonresident nontaxpayers” into making an election to be treated as a “resident alien” and a “taxpayer” by telling the filer that they:**
  - **Will NOT accept the “return” without a Taxpayer Identification Number.**
  - **Will NOT accept a “nontaxpayer” form. In fact, all their forms presuppose the submitter is a “taxpayer” and their own mission state says they only help “taxpayers”.**
  - **Will penalize you for filing a nonresident form.**
  - **Will penalize the filer for creating their own “nonresident nontaxpayer” form without a TIN that correctly represents your status and the criminal nature of the initial withholding.**
- **According to 26 CFR §301.6109-1(b), Taxpayer Identification Numbers (TINS) are ONLY required in the case of nonresidents by those engaged in a the “trade or business” franchise.**

## ***How Illegal or Unnecessary Withholding is Abused to Unlawfully Recruit More “Taxpayers”***

- Hence, by unlawfully compelling the use of TINs by “nontaxpayers”, the IRS is compelling nontaxpayers to:
  - Criminally impersonate a public officer in violation of [18 U.S.C. §912](#)
  - Be subject to the I.R.C. by being compelled to acquire a status subject to the I.R.C. in order to avoid having the government keep their unlawfully withheld earnings
  - Make an election (consent) to become a statutory “individual”, which is also a public officer in the U.S. government.
  - Waive constitutionally protected rights in what amounts to a conspiracy against rights in violation of [18 U.S.C. §241](#).
- The above mechanisms for **FORCING** people to file **KNOWINGLY FRAUDULENT** forms that misrepresent their status and thereby to become statutory “taxpayers” are what we call “privilege induced slavery”. They result in compelling you to engage in criminal activity of impersonating a public officer in the U.S. government and to bribe the IRS to procure a public office in violation of [18 U.S.C. §§ 201 and 210](#) in exchange for the “privilege” to have **STOLEN** property returned to you.

## ***How Illegal or Unnecessary Withholding is Abused to Unlawfully Recruit More “Taxpayers”***

- The U.S. Supreme Court said that if money comes into the hands of its agents through any criminal activity, then they must return it, **REGARDLESS** of how they obtained it and **REGARDLESS** of whether you are subject to their laws when you ask for it back.
- For an example of how to get unlawfully withheld monies back without a number and without being compelled to become a “taxpayer” and commit the crime of impersonating a public officer, see:  

*Federal Nonresident Non-statutory Claim for Return of Funds Unlawfully Withheld Earnings*, Form #15.001  
<http://sedm.org/Forms/FormIndex.htm>
- If the IRS won't refund funds of a nontaxpayer not lawfully withheld without requiring you to either use a “taxpayer” form or a “taxpayer” number (TIN), then you need to sue them for damages associated with compelling you to impersonate a public officer in violation of [18 U.S.C. §912](#) and file a criminal complaint against them



# Getting Connected: Resources

- **Ministries:**
  - Family Guardian Website: <http://famguardian.org>
  - Sovereignty Education and Defense Ministry (SEDM): <http://sedm.org>
- **Freedom websites:**
  - Freedom School: <http://www.freedom-school.com/>
  - USA the Republic: <http://www.usa-the-republic.com/>
  - Show Me the Law: <http://www.showmethelaw.net/>
  - National Organization to Stop Socialism Now (NO SSN): <http://www.nossn.com/>
- **Organizations and foundations:**
  - We the People Foundation for Constitutional Education:  
<http://givemeliberty.org>
- **Legal Research Sources**
  - Legal Research Sources:  
<http://famguardian.org/TaxFreedom/LegalRef/LegalResrchSrc.htm>
  - [Legal Research DVD, Form #11.201](#)-very complete legal reference library on one DVD. Includes all titles of U.S.C, regulations, organic documents, etc.
  - Cornell University Legal Information Institute (LII): <http://www4.law.cornell.edu/>
  - Electronic Code of Federal Regulations (eCFR): <http://www.gpoaccess.gov/ecfr/>
  - Versus Law (case research, fee-based): <http://www.versuslaw.com/>
  - FindLaw: <http://www.findlaw.com/>
  - USSC+ (Supreme Court CD-ROM): <http://www.usscplus.com/>

# ***Tax Withholding/Reporting Resources***

- ***The “Trade or Business” Scam***, Form #05.001-shows what the income tax is really upon  
PDF: <http://sedm.org/Forms/MemLaw/TradeOrBusScam.pdf>  
HTML:  
<http://famguardian.org/Subjects/Taxes/Remedies/TradeOrBusinessScam.htm>
- ***Federal and State Tax Withholding Options for Private Employers***, Form #04.101  
<http://sedm.org/Forms/FormIndex.htm>
- ***Federal Tax Withholding***, Form # 04.102–abbreviated version of the above  
<http://sedm.org/Forms/FormIndex.htm>
- ***Demand for Verified Evidence of “trade or business” Activity: Information Return***, Form #04.007-use to educate companies about the laws on tax reporting to prevent false reports  
<http://sedm.org/Forms/FormIndex.htm>
- **AMENDED IRS Forms and Publications:**  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSFormsPubs.htm>

# Tax Withholding/Reporting Resources

- **Correcting Erroneous Information Returns**
  - **Correcting Erroneous Information Returns**, Form #04.001: Condenses the following four documents into one with additional information  
<http://sedm.org/Forms/FormIndex.htm>
  - **Corrected Information Return Attachment Letter**, Form #04.002: Send this in as an attachment to corrected information returns  
<http://sedm.org/Forms/FormIndex.htm>
  - **Correcting Erroneous IRS Form 1042's**, Form #04.003:  
<http://sedm.org/Forms/FormIndex.htm>
  - **Correcting Erroneous IRS Form 1098's**, Form #04.004:  
<http://sedm.org/Forms/FormIndex.htm>
  - **Correcting Erroneous IRS Form 1099's**, Form #04.005:  
<http://sedm.org/Forms/FormIndex.htm>
  - **Correcting Erroneous IRS form W-2s**, Form #04.006:  
<http://sedm.org/Forms/FormIndex.htm>
  - **Precious Metal Transaction Reporting**, Form #04.106:  
<http://sedm.org/Forms/FormIndex.htm>

# Conclusions

- Tax withholding is not a complicated subject if you [read the law](#)
- We encourage you to study the subjects covered in this short course further. See:  
*Federal and State Tax Withholding Options for Private Employers, Form #05.007*  
<http://sedm.org/Forms/FormIndex.htm>
- We encourage everyone to obey [the law](#) and do not endorse or condone illegal activity of any kind
- Government publications do *not* discuss most of the information presented in the course because they don't want you to know. Promoting ignorance, fear, and misinformation is how they fraudulently manufacture more "[taxpayers](#)" out of "nontaxpayers"
- We want to help you get educated, be [self governing](#), and separate yourself from [the government "matrix"](#). We as believers are the "church" and everyone else is the "[state](#)" and we seek separation of church and state. See:  
<http://famguardian.org/Subjects/Spirituality/ChurchTaxation/WeAreTheChurch.htm>

# ***Flawed Tax Arguments***

- If you intend to use any of this information in your own case, it is VERY important that you read ALL the following analysis of the many FLAWED tax arguments out there from the government, legal profession, and other groups:
  - *Flawed Tax Arguments to Avoid*, Form #08.004  
<http://sedm.org/Forms/FormIndex.htm>
  - *Meaning of the Words “Includes” and “Including”*, Form #05.014  
<http://sedm.org/Forms/FormIndex.htm>
  - *Rebutted Version of IRS “The Truth About Frivolous Tax Arguments*, Form #08.005  
<http://sedm.org/Forms/FormIndex.htm>
  - *Rebutted Version of Congressional Research Service Report 97-59A “Frequently Asked Questions Concerning the Federal Income Tax”*, Form #08.006  
<http://sedm.org/Forms/FormIndex.htm>
  - *Rebutted Version of Dan Evan’s “Tax Protester Frequently Asked Questions”*, Form #08.007  
<http://sedm.org/Forms/FormIndex.htm>
- You can find all the above and more in our Liberty University, Section 8 entitled *Resources to Rebut Government, Legal and Tax Profession Lies and Propaganda* available at:  
<http://sedm.org/LibertyU/LibertyU.htm>

## ***Sovereignty Education and Defense Ministry (SEDM)***

- **Founded in 2003**
- **A non-profit Christian/religious ministry**
- **Mission statement found at:**  
<http://sedm.org/Ministry/AboutUs.htm>
- **Articles of Mission available at:**  
<http://sedm.org/Ministry/SEDMArticlesPublic.pdf>
- **Managed by a board of ordained ministers**
- **Ministry offerings are completely consistent with materials found on the [Family Guardian Website](#)**
- **Educational course materials available only to “members”, who must be “nonresident aliens” and “nontaxpayers” not engaged in a “[trade or business](#)” and who believe in God**
- **All educational materials obtained online *only***
- **Signed [Member Agreement, Form #01.001](#) required to join or obtain any ministry offerings**
- **Based out of (but NOT domiciled in) Canada and outside of jurisdiction of United States government**
- **Focus exclusively on *human beings* and not *businesses***
- **See the [“About Us” page](#) for further details on the ministry**
- **See our Frequently Asked Questions page, which answers most questions to or about us:**
  - <http://sedm.org/FAQs/FAQs.htm>

## ***Sovereignty Education and Defense Ministry (SEDM)***

- **We are NOT:**
  - Anti-government, but pro SELF-government
  - “Tax protesters”, “tax deniers”, or “tax defiers”, but rather a legal education and law enforcement ministry
- **WE DO NOT:**
  - Offer any kind of investment or “[tax shelter](#)” or engage in any kind of commerce within the jurisdiction of the “United States”
  - Provide legal advice or representation (but do provide “assistance of counsel”).
  - Allow our materials or services to be used for any unlawful purpose
  - Make legal determinations about your status
  - Market, advertise, or “promote” anything or pursue any commercial purpose. Our goals are exclusively moral and spiritual and not financial.
  - Interact directly with the IRS on your behalf
  - Offer asset protection, trusts, or corporation soles
  - Make promises or assurances about the effectiveness of our materials or information
  - “Represent” anyone using IRS 2848 Power of Attorney forms
  - Prepare or advise in the preparation of tax returns for others

# ***Sovereignty Education and Defense Ministry (SEDM)***

- **WE DO NOT:**

- Allow our materials or services to be used to interact with the government or legal profession on behalf of “[taxpayers](#)”, “[U.S. citizens](#)”, “[U.S. persons](#)”, “U.S. residents”, or any instrumentality of the federal government, including especially “[public officers](#)”
- Connect ourselves with a “[trade or business in the United States](#)” or any government franchise
- Engage in factual or actionable speech. All of our offerings constitute religious beliefs and opinions that are not admissible as evidence pursuant to [Fed.Rul.Ev. 610](#). Only you can make them admissible as evidence by signing them under penalty of perjury as part of an affidavit
- Advocate or endorse any of the flawed tax arguments identified by the courts in the following document:

*Flawed Tax Arguments to Avoid*, Form #08.004

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

- **For rebutted arguments against this ministry, see:**

*Policy Document: Rebutted Arguments Against This Website*, Form #08.011

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



# *Questions?*

