MEANING OF THE WORDS "INCLUDES" AND "INCLUDING"

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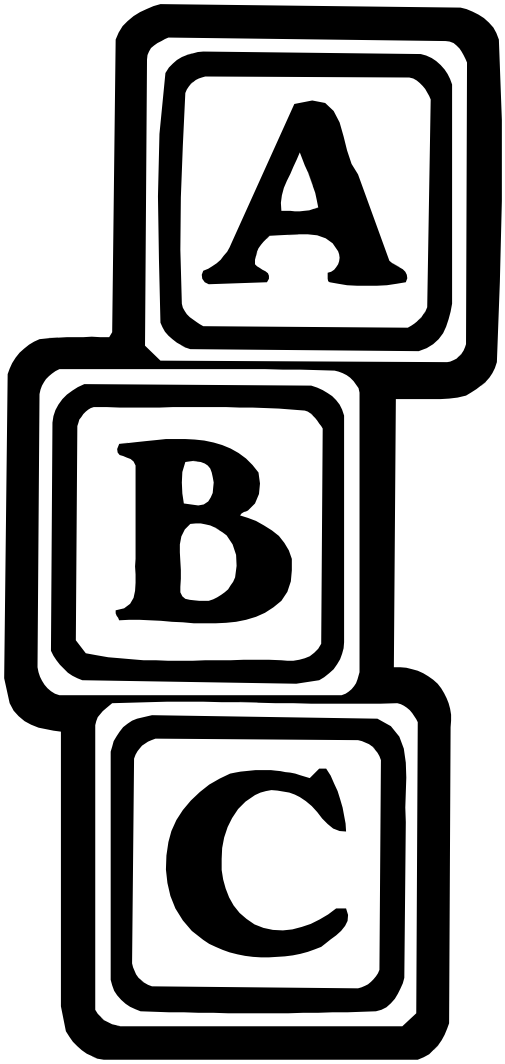

DEDICATION

"Dishonest [unequal] scales are an abomination to the Lord, but a just weight is His delight."
[Prov. 11:1, Bible, NKJV]

"The great enemy of clear language is insincerity. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink. "
[George Orwell, "Politics and the English Language", 1946; English essayist, novelist, & satirist (1903 - 1950)]

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

"When words lose their meaning, people will lose their liberty."
[Confucius, 500 B.C.]

"If a word has an infinite number of meanings [or even a SUBJECTIVE meaning], it has no meaning, and our reasoning with one another has been annihilated."
[Aristotle, Metaphysica Book IV]

"Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of their wiser neighbors. But the best instruction on this subject is unhappily conveyed to America by the example of her own situation. ***She finds that she is held in no respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs.***

The internal effects of a mutable policy are still more calamitous. ***It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed?***

Another effect of public instability is the unreasonable advantage it gives to the sagacious, the enterprising, and the moneyed few over the industrious and uniformed mass of the people*. Every new regulation concerning commerce or revenue, or in any way affecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens.* ***This is a state of things in which it may be said with some truth that laws are made for [benefit of] the FEW, not for the MANY.****"*
[Federalist Paper No. 62, James Madison]

"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. ***To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them****; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."*
[Federalist Paper No. 78, Alexander Hamilton]

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TABLE OF AUTHORITIES

The authorities indicated below describe where specific cases, statutes, and regulations are cited within this book. Additional very useful and helpful authorities may be found on our website at:

Sovereignty Forms and Instructions Online http://famguardian.org/TaxFreedom/FormsInstr.htm

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1 Introduction

In a republic where open armed warfare of tyrants against their own people would garner massive public resistance, the only tool for conquest are the abuse of words and language as a tool of deception, propaganda, rhetoric, and persuasion. The communists understood this well by censoring the press and granting to themselves control over all press. Joseph Goebbels said on this subject:

> *"The lie can be maintained only for such time as the State can shield the people from the political, economic, and/or military consequences of the lie. It thus becomes vitally important for the State to use all of its powers to repress dissent, for the truth is the mortal enemy of the lie, and thus by extension,* ***the truth is the greatest enemy of the State****."*
> *[Joseph Goebbels, German Minister of Propaganda, 1933-1945]*

George Orwell also commented on this subject when he wrote the following:

> *"****The great enemy of clear language is insincerity****. When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink. "*
> *[George Orwell, "Politics and the English Language", 1946; English essayist, novelist, & satirist (1903 - 1950)]*

Governments are SUPPOSED to be created to protect ONLY private rights. When those running government seek to DESTROY and STEAL private rights by converting them to public property and public rights, they must resort to deliberately vague and unclear language in order to disguise their clearly unconstitutional and treasonous activities and breach of the public trust. Like a cuttlefish, they spurt ink called "words of art" that have the opposite meaning to what most people understand in order to deceive the people and thereby subdue public resistance and outcry. When the deception and unconstitutional presumptions the words create is discovered and challenged in a legal setting, they employ omission, legalese, trickery, and exploit the legal ignorance of the average American to avoid the criminal consequences of being discovered. Frederic Bastiat describes this situation as follows:

> ***The Law Defends Plunder***
>
> *[. . .]* ***Sometimes the law defends plunder and participates in it. Thus the beneficiaries are spared the shame, danger, and scruple which their acts would otherwise involve. Sometimes the law places the whole apparatus of judges, police, prisons, and gendarmes at the service of the plunderers, and treats the victim - when he defends himself - as a criminal.*** *In short, there is a* legal plunder, *and it is of this, no doubt, that Mr. de Montalembert speaks.*
>
> *This legal plunder may be only an isolated stain among the legislative measures of the people. If so, it is best to wipe it out with a minimum of speeches and denunciations - and in spite of the uproar of the vested interests.*
> *[The Law, Frederic Bastiat; SOURCE: http://famguardian.org/Publications/TheLaw/TheLaw.htm]*

In essence, criminal public servants abuse the complexity of the law and the ignorance of the average American about the law that THEY manufactured in the public school system to HIDE and CONCEAL what amounts to criminal extortion and racketeering. THIS was the very thing, the ONLY thing that Jesus ever got angry about when he visited Earth. By "hindering" he really means UNDERSTANDING and IMPLEMENTING what the law requires:

> *"****Woe to you lawyers! for you have taken away the keys of knowledge; you did not enter yourselves, and you hindered those who were entering****."*
> *[Luke 11:52, INTERPRETATION: woe unto lawyers who write a law to deliberately be confusing or who use or interpret a law that is written in a confusing way to hide the truth or deceive people for their own selfish gain]*

It is no accident that Jesus came to Earth to call the sinners to repentance, and that the first place he visited to find such sinners was the tax office. See Mark 2:14. The "keys of knowledge" that Jesus was referring to above are the REAL meaning of the words. In short: The TRUTH. On this subject, Confucius said:

> *"When words lose their meaning, people will lose their liberty."*
> *[Confucius, 500 B.C.]*

The organizers of this organized crime "protection racket" that Jesus criticized above are usually corrupt government employees with a conflict of interest who care more about their paycheck and retirement check than about enforcing or

obeying the law. Efforts to hide this criminal activity by public servants are a crime called obstruction of justice, and are most often employed by those most responsible for implementing justice: government judges and prosecutors in court. The bible describes such abuses as follows:

> *"**Shall the throne of iniquity, which devises evil by law, have fellowship with You?** They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness; **the Lord our God shall cut them off.**"*
> *[Psalm 94:20-23, Bible, NKJV]*

> *"For **you have trusted in your wickedness**;*
> ***You have said, 'No one sees me';***
> ***Your [worldly] wisdom and your knowledge have warped you;***
> *And you have said in your heart,*
> *' I am, and there is no one else besides me.''*
> *[Isaiah 47:10, Bible, NKJV]*

We argue that the "throne of iniquity" described above is the judge's bench of those judges who are substituting their will for what the law actually and expressly says and "includes". Those who bow to expedience and criminal extortion of such a "protection racket", and especially under the influence of fear or terror, are "worshipping" not only Satan, but participating in a religious ritual within an unconstitutional state sponsored church in which:

1. "Presumption" serves as the religious equivalent of "faith". This includes presumptions about what is "included".
2. The judge is the "priest".
3. Voluntary franchise statutes called "codes" serve as the equivalent of a "bible" for the church. The bible only has the "force of law" for Christians, and franchises only have the "force of law" for franchisees who had to volunteer such as "taxpayers".
4. The court is the "church" building.
5. Taxes are "tithes" to the state sponsored church.
6. Pleadings are "prayers" to the only sovereign, which is the collective. Individual rights and sovereignty are forbidden.
7. Licensed attorneys are deacons who conduct the worship serves at the church/court. These deacons are "ordained" by the chief priests of the state supreme court, who are the leaders of this state sponsored civil religion.

The nature of this unconstitutional civil religion that violates the First Amendment and the Religious Freedom Restoration Act, 42 U.S.C. Chapter 21B is exhaustively described and proven in the following:

Socialism: The New American Civil Religion, Form #05.016 http://sedm.org/Forms/FormIndex.htm

The earlier quote from Isaiah 47:10 says "*I am, and there is no one besides me*." This is the legal equivalent to saying that the ONLY sovereign is the GOVERNMENT, and everyone works for the government at gunpoint as a public officer and franchisee under compulsion and without compensation. In a de facto government such as we have, all "citizens" and "residents" are in fact public officers in the government and private rights and private property are effectively outlawed. The nature of that de facto government is described in:

De Facto Government Scam, Form #05.043 http://sedm.org/Forms/FormIndex.htm

By far, the most prevalent method abused by covetous public dis-servants to deceive and steal from people they are supposed to be protecting is to ***add things to the meaning of words*** that do not expressly appear in the statutes themselves. The method of choice for performing that unlawful and unconstitutional expansion of their power and jurisdiction is the abuse of the word "includes" and to willfully violate the strict rules of statutory construction. This abuse of language, "words of art", and the rules of statutory construction is especially prevalent on tax issues in both administrative correspondence with the IRS and in federal court. The motivation for employing this deception and constructive FRAUD it is GREED and COVETOUSNESS by government employees for YOUR money and property:

> *"For the love of money is a root of all kinds of evil, for which some have strayed from the faith in their greediness, and pierced themselves through with many sorrows."*
> *[1 Tim. 6:10, Bible, NKJV]*

In particular:

1. Federal District and Circuit Courts decide cases that relate to this issue frequently.
2. The IRS brings this issue up frequently in its collection notices and its telephone support.
3. Internet forums discussing the requirements of the Internal Revenue Code frequently contain arguments on this issue. See:
   3.1. Family Guardian Forums: http://famguardian.org/forums/
   3.2. Sui Juris Forums: http://forum.suijuris.net/
   3.3. MSN Tax Board:
   http://moneycentral.communities.msn.com/TaxCorner/general.msnw?action=get_threads
   3.4. Quatloos Forums:
   http://www.quatloos.com/Tax-Forums/viewforum.php?f=8
   3.5. Legality of Income Taxes Forum:
   http://groups.yahoo.com/group/legality-of-income-tax/
4. Definitions of the following words in the Internal Revenue Code rely on the use of this word:
   4.1. "employee": 26 U.S.C. §3401(c)
   4.2. "gross income": 26 U.S.C. §872
   4.3. "person": 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b)
   4.4. "State": 26 U.S.C. §7701(a)(10)
   4.5. "trade or business": 26 U.S.C. §7701(a)(26)
   4.6. "United States": 26 U.S.C. §7701(a)(9)

It is therefore of extreme importance to conduct a scholarly inquiry into this subject to settle the dispute once and for all clearly and unambiguously, and to do so entirely free of any "presumption" or prejudice. We will do so only with authoritative sources such as enacted positive law and the rulings of the Supreme Court. If we quote lower courts, we will do so only to further illustrate our point but emphasize that according to the IRS' own rules (see IRM 4.10.7.2.9.8), the rulings of these lower courts cannot and should not be relied upon to sustain a reasonable belief:

> *Internal Revenue Manual*
> *Section 4.10.7.2.9.8 (05-14-1999) Importance of Court Decisions*
>
> *1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.*
>
> *3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.*

We will start off with an introduction to due process and show you how it is violated when judges and government attorneys play word games with "includes". Then in Sections 7 and 8 we will present an itemized list of all of the legal definitions of the words "includes" and "including" from the most authoritative sources and describe all the rules of statutory construction applicable to the interpretation of the meaning of legal "terms". Then in section 9 we will synthesize all these sources to discover the true meaning and proper application of the word. Sections 10 and 11 will analyze the most commonplace government propaganda on the subject of the word "includes". Then in section 13, we include a series of legal admissions targeted at those die-hard readers who simply refuse to believe our analysis. Each question has a default answer, and failure to rebut causes them to admit the truth of our analysis. The final section, Section 12, will list further resources you are encouraged to consult in the process of further researching and rebutting our analysis.

2 Scope of this document

Ultimately, what we will prove indirectly in this document is the following:

1. That the Constitution is trust indenture and a delegation of authority order from We the People to their SERVANTS in government. That trust indenture establishes a corporation called the "United States" referenced in 28 U.S.C. §3002(15)(A).

> *At common law, a "corporation" was an "artificial perso[n] endowed with the legal capacity of perpetual succession" consisting either of a single individual (termed a "corporation sole") or of a collection of several individuals (a "corporation aggregate"). 3 H. Stephen, Commentaries on the Laws of England 166, 168 (1st Am. ed. 1845) . The sovereign was considered a corporation. See id., at 170; see also 1 W. Blackstone, Commentaries *467. Under the definitions supplied by contemporary law dictionaries, Territories would have been classified as "corporations" (and hence as "persons") at the time that 1983 was enacted and the Dictionary Act recodified. See* ***W. Anderson, A Dictionary of Law 261 (1893) ("All corporations were originally modeled upon a state or nation"); 1 J. Bouvier, A Law Dictionary Adapted to the Constitution and Laws of the United States of America 318-319 (11th ed. 1866) ("In this extensive sense the United States may be termed a corporation"); Van Brocklin v. Tennessee, 117 U.S. 151, 154 (1886) ("`The United States is a . . . great corporation . . . ordained and established by the American people'") (quoting United [495 U.S. 182, 202] States v. Maurice, 26 F. Cas. 1211, 1216 (No. 15,747) (CC Va. 1823) (Marshall, C. J.)); Cotton v. United States, 11 How. 229, 231 (1851) (United States is "a corporation").*** *See generally Trustees of Dartmouth College v. Woodward, 4 Wheat. 518, 561-562 (1819) (explaining history of term "corporation").*
> *[Ngiraingas v. Sanchez, 495 U.S. 182 (1990)]*

2. That the Constitution as a trust indenture:
   2.1. Was established by the Founding Fathers, who are the "grantors" of the trust.
   2.2. Contains the community property or "public property" of the collective states of the Union, which is the "corpus" of the trust.
   2.3. Has "We the People and our posterity" as the beneficiaries of the trust.
   2.4. Has our public servants as trustees.
   2.5. Imposes duties only upon the "trustees", meaning the public servants and public officers elected to administer the trust. Cannot impose any duty upon the grantors or beneficiaries, which is the Founding Fathers acting as a component of us, We the People. Any attempt to use it as authority to impose duties upon the beneficiaries, which is "We The People", is a violation of the trust indenture, which prohibits involuntary servitude within the Thirteenth Amendment.
3. That our public servants are the trustees of We The People charged with implementing the trust indenture. This is what it means to be a "public officer", which is that they are "trustees". These "public officers" are also "officers of a corporation" and ONLY by virtue of being such officers can they become "persons" and "individuals" within government law such as that found in 26 U.S.C. §6671(b), 26 U.S.C. §7343, and 5 U.S.C. §552a(a)(2).

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

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[1] State ex rel. Nagle v Sullivan, 98 Mont 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v Hague, 18 N.J. 584, 115 A.2d. 8.

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

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

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

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

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

4. That all statutes passed in furtherance of the Constitution are the implementation and interpretation of that delegation of authority order by the trustees and public officers charged with running our government.
5. That when the trustees become corrupted by greed and avarice and covetousness, the only method available to them to lawfully exceed their delegation of authority order is to:
   5.1. Write deliberately vague laws or "codes" that leave undue discretion with judges and administrators and thereby turn us from a society of law into a society of men.

> *"When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.* ***And the law is the definition and limitation of power.****"*

> *From Marbury v. Madison to the present day, no utterance of this Court has intimated a doubt that in its operation on the people, by whom and for whom it was established, the national government is a government of enumerated powers, the exercise of which is restricted to the use of means appropriate and plainly adapted to constitutional ends, and which are "not prohibited, but consist with the letter and spirit of the Constitution."*

> *The powers delegated by the people to their agents are not enlarged by the expansion of the domain within which they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained, that is an end of the question.*

> *To hold otherwise is to overthrow the basis of our constitutional law, and moreover, in effect, to reassert the proposition that the states, and not the people, created the government.*

> *It is again to antagonize Chief Justice Marshall, when he said:*

> > *The government of the Union, then (whatever may be the influence of this fact on the case), is emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit. This government is acknowledged by all to be one of enumerated powers.*
>
> *[Downes v. Bidwell, 182 U.S. 244 (1901)]*

   5.2. Abuse the rules of statutory construction to add powers not found in their delegation of authority order through judicial decree or fiat.

> *"When words lose their meaning, people will lose their liberty."*
> *[Confucius, 500 B.C.]*

   5.3. Abuse the words "includes" to add things to definitions not found in the law itself. This approach violates the notion of equal protection mandated by the Fourteenth Amendment, because if the government can PRESUME things are included that are not expressly indicated, then you have an EQUAL right to PRESUME that they are excluded. Hence, the result is a government with supernatural powers and a religion that worships those supernatural powers denied to the people individually.

> ***"No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government."***
> *[Gulf, C. & S. F. R. Co. v. Ellis,* 165 U.S. 150 *(1897)]*

   5.4. Confuse the context of words used in the law in order to destroy the separation of powers doctrine and plunder your property and rights. See:

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

6. That covetous trustees and public servants over the years have abused all of the above techniques so prevalently that they have:
   6.1. Hijacked the trust and become usurpers operating what the courts call a "sham trust".
   6.2. Transformed a society of law into a society of men.
   6.3. Transformed the Republic bequeathed to us by our founding fathers into a totalitarian socialist democracy.

7. That using self-serving presumptions about the meaning of words, judges and government bureaucrats have:
   7.1. Exercised eminent domain over all private property and converted into public property because it is "effectively connected with a trade or business". They have done this by not telling the whole truth about the income tax in IRS publication, causing the public to be deceived that EVERYONE is a "taxpayer" engaged in the "trade or business" franchise who is a public officer within the government. See:

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

   7.2. Outlawed personal responsibility and made the government into a "parens patriae" over everyone by forcing everyone to participate in federal insurance and "benefits" available ONLY to those ALREADY lawfully occupying public offices in the government. See:

The Government "Benefits" Scam, Form #05.040 http://sedm.org/Forms/FormIndex.htm

   7.3. Destroyed the sovereignty of the people and transformed themselves from the SERVANTS of the people into the "EMPLOYERS" of the people.

> *"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)]*

   7.4. Turned a republic into just a big federal corporation everyone must apply for "employment" with as a "public officer" in order to receive any benefits from. Those who have made said application and "election" to receive the "privileges" provided by the corporation are called "citizens" and "residents" and have effectively and unilaterally "elected" themselves into public office within the U.S. government.
   7.5. Surreptitiously transformed everything a de jure government does into a franchise and thereby forced everyone to participate in franchises and have no constitutional rights or even ownership over their own property. See:

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

3 Treason and Sedition by Lawyers Using Word Games

Lawyers are warriors and adversaries. The legal field in general is very confrontational and adversarial and unethical. The only weapon they have to fight with is:

1. Words.
2. Definitions of words.
3. Controlling who gets to define the meaning of words.
4. Controlling or influencing what part of the law is enforced or who it is enforced against. In other words, they use "selective enforcement" in order to benefit themselves personally and financially, and to hell with what the law requires.
5. Exploiting your own legal ignorance to terrorize you into submission. It's a poker game and this tactic in poker is called a bluff. They manipulate the risks or perceived risks in order to coerce the outcome they seek.
6. The authority you delegate to them OVER YOU by consenting to the jurisdiction of a court that otherwise would have no jurisdiction by making an "appearance". At the point you consent, you lose your right to complain about what the court did to you.

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

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

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

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

***appearance**. A coming into court as a party to a suit, either in person or by attorney, whether as plaintiff or defendant. The formal proceeding by which a defendant submits himself to the jurisdiction of the court. The **voluntary submission** to a court's jurisdiction.*

In civil actions the parties do not normally actually appear in person, but rather through their attorneys (who enter their appearance by filing written pleadings, or a formal written entry of appearance). Also, at many stages of criminal proceedings, particularly involving minor offenses, the defendant's attorney appears on his behalf. See e.g., Fed.R.Crim.P. 43.

*An appearance may be either **general** or **special**; the former is a simple and unqualified or unrestricted submission to the jurisdiction of the court, the latter is a submission to the jurisdiction for some specific purpose only, not for all the purposes of the suit. A special appearance is for the purpose of testing or objecting to the sufficiency of service or the jurisdiction of the court over defendant without submitting to such jurisdiction; a general appearance is made where the defendant waives defects of service and submits to the jurisdiction of court. Insurance Co. of North America v. Kunin, 175 Neb. 260, 121 N.W.2d 372, 375, 376.*
[Black's Law Dictionary, Sixth Edition, p. 97]

Lawyers use words to "sell" and "market" their political view of the world to circumvent the will of the people expressed in the law. They do this regardless of whether that view is consistent with the truth or reality or the "legislative intent" of the statute they pretend to want to enforce. This may be why some people call lawyers and judges "silver tongued devils".

Lawyers who wish to advance a position contrary to what the law expressly says and which serves their own financial interest at the expense of others have a very limited repertoire of "weapons" they can use, all of which have dishonest and unlawful goals at their heart. Every American should understand and immediately recognize these tactics and if they did, our system of law would much better serve the interests of true justice. Here is a list of some of the dishonest tactics that dishonest "word games" that lawyers use to expand their own importance and the jurisdiction of the government beyond what the law clearly and expressly authorizes:

1. They will provide a statutory definition in the law, but then insist that the jury or the judge enforce the ORDINARY meaning RATHER than the LEGAL meaning. We call this tactic "deception through words of art".
2. They will deliberately confuse the two main contexts for legal "terms". There are two main contexts for "words of art": (1) Constitution; (2) Statutes. These contexts are usually mutually exclusive and NOT synonymous. This approach takes many forms:
   2.1. With citizenship terms, they will confuse CONSTITUTIONAL/POLITICAL status with STATUTORY STATUS.
   2.2. With geographic words of art such as "State" and "United States", they will presume that the two contexts are the same and that they are equivalent to the constitutional context.

   These types of tactics are further clarified in the next section.
3. They will add things to the definition of statutory "terms" that do not expressly appear in the law itself, in violation of the rules of statutory construction and of due process of law. The success of this approach depends primarily on:
   3.1. The legal ignorance of the audience they are trying to convince. The more legally ignorant the audience is, the better for the lawyer making the FALSE proposition.
   3.2. The willingness of the audience to make "presumptions" that what they are adding is indeed "included" without actually looking at the law.
4. They will propose a meaning to the law or its operation that does not appear in the law itself and then:
   4.1. Exclude all evidence from the record that disproves this meaning.
   4.2. Make a motion in limine to exclude the evidence disproving their argument.

5. They will invite in "experts" to share opinions that are irrelevant because not substantiated by facts.
6. When confronted with the truth, they will:
   6.1. Personalize the discussion and try to discredit the opponent using issues that are irrelevant.
   6.2. Threaten their opponent with endless retaliatory litigation, and indirectly, with a mountain of debt needed to pay for the litigation, as a financial dis-incentive to follow what the law actually says.
7. They will redefine words in the legal dictionary to deceive or mislead people. Earlier versions of Black's Law Dictionary, for instance, are much more complete and truthful than later versions. Westlaw, the publisher, refuses to allow older versions of their legal dictionary to be offered to the public because they want to perpetuate social change and further corruption of the legal profession.
8. They will associate the terms used on government forms that even the government says are untrustworthy with the ORDINARY meaning rather than the statutory meaning. The way to prevent this is to attach to every government form you fill out a mandatory attachment such as the following which defines EVERY "word of art" to prevent being victimized by their usually false, prejudicial, and injurious presumptions.

   Tax Form Attachment, Form #04.201
   http://sedm.org/Forms/FormIndex.htm

9. Judges will censor the truth about the meaning of the words in the law by:
   9.1. Approving motions of government attorneys to censor evidence seen by the jury that might point the jury to the correct application of the statute or definition being enforced.
   9.2. Insisting that they are the only ones who are allowed to define what a word means on a form that YOU submitted, even if it is in conflict with the definition you provided on the form and even attached to the form. By doing so, they are interfering with the exercise of your right to contract and to associate, because the status us use to describe yourself is the ONLY legal method by which you can exercise your constitutional right to associate and contract.
   9.3. Placing arbitrary limits on the size of pleadings filed with the court.
   9.4. Calling arguments or litigants "frivolous" but refusing to provide legally admissible evidence that proves that their arguments are inaccurate.
   9.5. Rejecting the filing of pleadings.
   9.6. Refusing to allow litigants to discuss what the law actually says in the courtroom and especially in front of the jury. This is criminal jury tampering, but of course, judges violate the law more often than most Americans.
   9.7. Sanctioning litigants for insisting on reading the law to the jurists.
   9.8. Punishing or sanctioning those litigants who insist on a jury trial that might result in a ruling more consistent with what the law actually says.
   9.9. Threatening to disbar attorneys who insist on acting consistent with what the law actually says.

The purpose of all of the above TREACHERY is to allow the corrupt covetous judge or the jury to substitute THEIR will for what the law actually and expressly says and to turn a country and a civilization into an ABOMINATION in the sight of the Lord:

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

> *"But this crowd that does not know [and quote and follow and use] the law is accursed."*
> *[John 7:49, Bible, NKJV]*

> *"In the United States, sovereignty resides in the people…the Congress cannot invoke sovereign power of the People to override their will as thus declared."*
> *[Perry v. U.S., 294 U.S. 330 (1935)]*

Collectively, all of the above tactics are dishonest, under handed, and ultimately result in a violation of the law and obstruction of justice. In many cases, the violation if even CRIMINAL and treasonous and should result in them being disbarred. In fact, such tactics have been identified in the statutes as a criminal offense:

> *TITLE 18 > PART I > CHAPTER 77 > § 1589*
> *§ 1589. Forced labor*

> *(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—*

> > *(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;*

(2) by means of serious harm or threats of serious harm to that person or another person;

(3) by means of the abuse or threatened abuse of law or legal process; or

(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint,

shall be punished as provided under subsection (d).

(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

(c) In this section:

(1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnapping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.

In fact, lawyers who use the above tactics are "devising evil by law" and doing the very thing that Jesus criticized the Pharisees for:

*"**Shall the throne of iniquity, which devises evil by law, have fellowship with You?** They gather together against the life of the righteous, and condemn innocent blood. But the Lord has been my defense, and my God the rock of my refuge. He has brought on them their own iniquity, and shall cut them off in their own wickedness; **the Lord our God shall cut them off.**"*
[Psalm 94:20-23, Bible, NKJV]

And WHAT is the main purpose of "law"? The U.S. Supreme Court identified the purpose of *all law* as a "definition and limitation of power". Upon WHO? How about the GOVERNMENT and all servants working for the government!:

> *"When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. **And the law is the definition and limitation of power.**"*

From Marbury v. Madison to the present day, no utterance of this Court has intimated a doubt that in its operation on the people, by whom and for whom it was established, the national government is a government of enumerated powers, the exercise of which is restricted to the use of means appropriate and plainly adapted to constitutional ends, and which are "not prohibited, but consist with the letter and spirit of the Constitution."

The powers delegated by the people to their agents are not enlarged by the expansion of the domain within which they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained, that is an end of the question.

To hold otherwise is to overthrow the basis of our constitutional law, and moreover, in effect, to reassert the proposition that the states, and not the people, created the government.

It is again to antagonize Chief Justice Marshall, when he said:

> *The government of the Union, then (whatever may be the influence of this fact on the case), is emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit. This government is acknowledged by all to be one of enumerated powers.*
>
> *[Downes v. Bidwell, 182 U.S. 244 (1901)]*

Law can only function as a "definition or limitation of power" delegated to public servants and government when:

1. All statutory terms are defined.
2. The "definition" expressly includes EVERYTHING or CLASS OF THING that is included.
3. Everything not "expressly included" is presumed to be purposefully excluded.

The legal definition of the word "definition", in fact, confirms these assertions:

> ***definition***. *A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words.* ***Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes.****"*
>
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

Legal maxims of law also confirm that everything NOT within the definition of a term is presumed to be "purposefully excluded":

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

The essence of what it means to be a "communist" is that communists:

> *"Refuse to recognize any limitation, and especially constitutional or statutory limitation, upon their power."*

Here is the proof of this fact provided by the communists themselves in their own laws:

> *TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.*
> *Sec. 841. - Findings and declarations of fact*
>
> *The Congress finds and declares that the Communist Party of the United States [**consisting of the IRS, DOJ, and a corrupted federal judiciary**], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [**and replace it with a de facto government ruled by a the judiciary**]. It constitutes an* ***authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion]*** *within a [constitutional] republic, demanding for itself the rights and privileges [including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the Constitution] accorded to political parties, but* ***denying to all others the liberties [Bill of Rights] guaranteed by the Constitution.*** *Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [**by corrupt judges and the IRS in complete disregard of the tax laws**] prescribed for it by the foreign leaders of the world Communist movement [**the IRS and Federal Reserve**]. Its members [**the Congress, which was terrorized to do IRS bidding recently by the framing of Congressman Traficant**] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public schools by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains.* ***Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members.*** *The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means.* ***The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using unlawfully enforced income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the***

> ***American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States.*** *It is the means whereby individuals are seduced into the service of the world Communist movement, trained to do its bidding, and directed and controlled in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed*

For emphasis, look at the essence of communism again from the above:

> ***"Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members.*** *[. . .]* ***The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities. ."***

Any effort to therefore exceed the limitations of either the Constitution or the laws which implement it constitutes an act of communism that must be swiftly and decisively stopped, and especially in a legal setting. A failure to prevent anyone in government from exceeding their authority or expanding any of their powers beyond the clear limits of the law, in fact, results in all the following consequences:

1. Destroys the separation of powers and makes the judiciary into an oligarchy.
2. Causes a loss of liberty for ALL but civil rulers.
3. Turns an objective "society of law" into a subjective "society of men" in violation of the legislative intent of the constitution.

> *"**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve that high appellation, if the laws furnish no remedy for the violation of a vested legal right."*
> *[Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)]*

4. Makes the Constitution into toilet paper.

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

5. Makes public *servants* into tyrants and dictators, instead of SERVANTS of the sovereign people. This de facto form of government is called a "dulocracy":

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

6. Makes Americans subject to the whims of their civil rulers and the subject of EVERY act of Congress.
7. Makes a profitable business for lawyers out of alienating rights that are supposed to be UNALIENABLE. This type of business, in fact, is a franchise, in which lawyers SELL you and your rights like cattle to the highest bidder. An unalienable right is, after all, a right that you CANNOT LAWFULLY CONSENT TO GIVE AWAY!

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

8. Results in a destruction of equality and places civil rulers above and superior to those they govern. This turns government into a pagan civil religion, in which:
   8.1. Civil rulers become "superior beings" and therefore "gods".
   8.2. Presumption serves as a substitute for religious faith. Faith, after all, is a belief about something that either CANNOT be or IS NOT REQUIRED TO BE proven with legally admissible PHYSICAL evidence.
   8.3. Consensually obeying franchise codes that are otherwise foreign and alien becomes the equivalent of an act of "worship" of the pagan deity. "Worship", after all, is defined as obedience to the laws of one's God, which is exactly the purpose of law as well:

> ***Worship**. Any form of religious service showing reverence for Divine Being, or **exhortation to obedience to or following the mandates of such Being**. Religious exercises participated in by a number of persons assembled for that purpose, the disturbance of which is a statutory offense in many states.*
>
> *English law. A title of honor or dignity used in addresses to certain magistrates and other persons of rank or office.*

[Black's Law Dictionary, Sixth Edition, pp. 1606-1607]

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*"**worship 1**. chiefly Brit: a person of importance—used as a title for various officials (as magistrates and some mayors) **2:** **reverence offered a divine being or supernatural power**; also: an act of expressing such reverence **3:** a form of religious practice with its creed and ritual **4:** extravagant respect or admiration for or devotion to an object of esteem <~ the dollar>."*
[Webster's Ninth New Collegiate Dictionary, 1983, ISBN 0-87779-510-X, p. 1361]

"Obedientia est legis essentia.
Obedience is the essence of the law. 11 Co. 100."
[Bouvier's Maxims of Law, 1856;
SOURCE: http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm]

8.4. "Taxes" become tithes to a state-sponsored church.
8.5. Franchises "codes" serve as the "bible" that facilitate people joining this voluntary church of socialism.
8.6. Your consent to be associated with a status under a government franchise is the method that you join the state-sponsored church.
8.7. Judges become "priests" of a civil religion.
8.8. Courthouses become "churches" of the civil religion.
8.9. Pleadings to the judge become "prayers" to the priest of the civil religion.
8.10. Attorneys act as deacons who conduct "worship services" at the altar of the judge in the "court" church building.
8.11. Seats in the church act as "pews" for those who worship the imperial monarch and priest of the civil religion called "judge".
8.12. Money becomes a permission slip to exist from the pagan deity.
8.13. A statutory "U.S. person" is really just an employee of the government who needs permission from a public servant to do ANYTHING and EVERYTHING.

The Bible confirms the above, wherein it admits that when the Israelites insisted on nominating a King who is sovereign over and superior to them, they were committing idolatry and worshipping a false religion.

*"Then all the elders of Israel gathered together and came to Samuel at Ramah, and said to him, 'Look, you are old, and your sons do not walk in your ways. **Now make us a king to judge us like all the nations** [and be OVER them]'.*

*"But the thing displeased Samuel when they said, '**Give us a king to judge us.'** So Samuel prayed to the Lord. **And the Lord said to Samuel, 'Heed the voice of the people in all that they say to you; for they have rejected Me, that I should not reign over them.** According to all the works which they have done since the day that I brought them up out of Egypt, even to this day—**with which they have forsaken Me and served other gods—so they are doing to you also** [government becoming idolatry]."*
[1 Sam. 8:4-8, Bible, NKJV]

God also warned us that allowing the servants in government to write their own delegation order by adding whatever they want to it through the abuse of the word "includes" would result in a government that becomes a THIEF and a tyrant:

"However, you shall solemnly forewarn them, and show them the behavior of the king who will reign over them."

*So Samuel told all the words of the LORD to the people who asked him for a king. And he said, "**This will be the behavior of the king who will reign over you: He will take [STEAL] your sons and appoint them for his own chariots and to be his horsemen, and some will run before his chariots. He will appoint captains over his thousands and captains over his fifties, will set some to plow his ground and reap his harvest, and some to make his weapons of war and equipment for his chariots. He will take [STEAL] your daughters to be perfumers, cooks, and bakers. And he will take [STEAL] the best of your fields, your vineyards, and your olive groves, and give them to his servants. He will take [STEAL] a tenth of your grain and your vintage, and give it to his officers and servants. And he will take [STEAL] your male servants, your female servants, your finest young men, and your donkeys, and put them to his work [as SLAVES]. He will take [STEAL] a tenth of your sheep. And you will be his servants. And you will cry out in that day because of your king whom you have chosen for yourselves, and the LORD will not hear you in that day."***

> *Nevertheless the people refused to obey the voice of Samuel; and they said, "No, but we will have a king over us, that we also may be like all the nations, and that our king may judge us and go out before us and fight our battles."*
> *[1 Sam. 8:9-20, Bible, NKJV]*

Thomas Jefferson also said that it is completely wrong to allow the servants to write or rewrite their own delegation of authority order to give them unlimited power:

> *"In questions of power...let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."*
> *[Thomas Jefferson: Kentucky Resolutions, 1798]*

> *"Whenever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force."*
> *[Thomas Jefferson: Kentucky Resolutions, 1798]*

> *"It [is] inconsistent with the principles of civil liberty, and contrary to the natural rights of the other members of the society, that any body of men therein [INCLUDING judges] should have authority to enlarge their own powers... without restraint."*
> *[Thomas Jefferson: Virginia Allowance Bill, 1778]*

Any attempt, therefore, to violate the rules of statutory construction, add things to definitions that don't expressly appear, or to invoke powers not expressly delegated amounts to the following for those who consent to be victims of it:

1. Treason.
2. Communism.
3. Slavery and subjection.

Confucius explained this situation best when he wisely said:

> *"When words lose their meaning, people will lose their liberty."*
> *[Confucius, 500 B.C.]*

If you would like to study the subject of corruption of the legal profession further touched upon in this section and even find evidence needed to PROVE the corruption, the following resources should prove useful:

1. SEDM Forms Page, Section 1.11.4: Corruption
   http://sedm.org/Forms/FormIndex.htm
2. Activism Page, Section 13: Investigate Government Corruption-Family Guardian Website
   http://famguardian.org/Subjects/Activism/Activism.htm
3. Law and Government Page, Section 14: Legal and Government Ethics-Family Guardian website
   http://famguardian.org/Subjects/LawAndGovt/LawAndGovt.htm

4 Ability to add anything one wants to a definition is a legislative function prohibited to constitutional courts

The separation of powers doctrine that is the heart of the United States Constitution reserves the power to make law exclusively to the Legislative Branch of the government. The purpose of the separation of powers doctrine is to protect your sacred constitutional rights:

> *"To the contrary, **the Constitution divides authority between federal and state governments for the protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power." Coleman v. Thompson, 501 U.S. 722, 759 (1991)** (BLACKMUN, J., dissenting). "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." Gregory v. [505 U.S. 144, 182] Ashcroft, 501 U.S., at 458 . See The Federalist No. 51, p. 323. (C. Rossiter ed. 1961).*
> *[New York v. United States, 505 U.S. 144 (1992)]*

Included within that legislative power is the exclusive authority to define words used within statutes. Anything not expressly appearing in the definition in turn is conclusively presumed to be "purposefully excluded":

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

The purpose of the expressio unius est exclusio alterius rule indicated above is to prevent the exercise of what the founding fathers called "arbitrary power":

> *"It has been frequently remarked, with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. **To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules [of statutory construction and interpretation] and precedents, which serve to define and point out their duty in every particular case that comes before them**; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them."*
> [Federalist Paper No. 78, Alexander Hamilton]

> *"When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, **we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.**"*
> *[Yick Wo v. Hopkins, 118 U.S. 356, 369 , 6 S. Sup. Ct. 1064, 1071]*

The exercise of arbitrary power has the practical effect of turning a "society of law" into a "society of men":

> *"**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve that high appellation, if the laws furnish no remedy for the violation of a vested legal right."*
> *[Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)]*

Arbitrary power is power whose limits are not defined. Statutory definitions are the main method of delegating and expressly limiting the exercise of such power and thereby preventing the exercise of arbitrary power.

When judges or executive branch employees do any of the following, they are unconstitutionally exercising "legislative power" reserved exclusively for the legislative branch in violation of the separation of powers doctrine and acting in a POLITICAL rather than LEGAL capacity:

1. Add any thing or class of thing they want to a statutory definition.
2. Act in a way inconsistent with the statutory definitions and refuse to define where the thing they want to include expressly appears in the statutes.
3. PRESUME any of the following. All presumption which adversely impact rights protected by the Constitution and which are not consented to are a violation of due process of law that renders a void judgment and renders the actions that result from it as de facto rather than de jure.
   3.1. That the statutory definition EXPANDS the common meaning of a term.
   3.2. That exclusively private conduct, property, or activities are included within the definition. The purpose of statutory civil law is to define and limit and control GOVERNMENT, but to leave private rights and private conduct ALONE. The ability to regulate private rights and private conduct is repugnant to the constitution.

When either the executive or judicial branches of the government exercise the above types of legislative powers reserved exclusively to the legislative branch, then you have tyranny and liberty is impossible. The founding fathers in writing the U.S. Constitution relied on a book entitled *The Spirit of Laws*, by Charles de Montesquieu as the design for our republican form of government. In that book, Montesquieu describes how freedom is ended within a republican government, which is when the judicial branch exercises any of the functions of the executive branch, such as by exercising "legislative powers" in adding to the statutory definitions of words.

> *"**When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.**"*

> ***Again, there is no liberty, if the judiciary power be not separated from the legislative and executive.*** *Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator.* ***Were it joined to the executive power, the judge might behave with violence and oppression [sound familiar?].***
>
> ***There would be an end of everything, were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.****"*
>
> *[. . .]*
>
> ***In what a situation must the poor subject be in those republics! The same body of magistrates are possessed, as executors of the laws, of the whole power they have given themselves in quality of legislators. They may plunder the state by their general determinations; and as they have likewise the judiciary power in their hands, every private citizen may be ruined by their particular decisions."***
> *[The Spirit of Laws,* Charles de Montesquieu, *Book XI, Section 6;*
> *SOURCE: http://famguardian.org\Publications\SpiritOfLaws\sol_11.htm]*

Franchise courts such as the U.S. Tax Court were identified by the U.S. Supreme Court in Freytag v. Commissioner, 501 U.S. 868 (1991) as exercising Executive Branch powers. Hence, such franchise courts are the most significant source of destruction of freedom and liberty in this country, according to Montesquieu. Other similar courts include family court and traffic court at the state level. We also wish to point out that the effect he criticizes also results when:

1. Any so-called "court" entertains "political questions". Constitutional courts are not permitted to act in this capacity and they cease to be "courts" in a constitutional sense when they do. The present U.S. Tax Court, for instance, was previously called the "Board of Tax Appeals" so that people would not confuse it with a REAL court. They renamed it to expand the FRAUD. See:
   Political Jurisdiction, Form #05.004
   http://sedm.org/Forms/FormIndex.htm
2. Litigants are not allowed to discuss the law in the courtroom or in front of the jury or are sanctioned for doing so. This merely protects efforts by the corrupt judge to substitute HIS will for what the law actually says and turns the jury from a judge of the law and the facts to a policy board full of people with a financial conflict of interest because they are "taxpayers". This sort of engineered abuse happens all the time both in U.S. Tax Court and Federal District and Circuit courts on income tax matters.
3. Judges are permitted to add anything they want to the definition and are not required to identify the thing they want to include within the statutory definition. This is equivalent to exercising the powers of the legislative branch.
4. A franchise court is the only administrative remedy provided and PRIVATE people are punished or financially or inconvenienced for going to a constitutional court.
5. Judges in any court are allowed to wear two hats: a political hat when they hear franchises cases and a constitutional hat for others. This is how the present de facto federal district and circuit courts operate. This creates a criminal financial conflict of interest.
6. Franchise courts refuse to dismiss cases and stay enforcement against private citizens who are not legitimate public officers within the SAME branch of government as THEY are. It is a violation of the separation of powers for one branch of government to interfere with the personnel or functions of another.
7. Judges in franchise courts are allowed the discretion to make determinations about the status of the litigants before them and whether they are "franchisees" called "taxpayers", "drivers", etc. When they have this kind of discretion, they will always abuse it because of the financial conflict of interest they have. Such decisions must always be made by impartial decision makers who are not ALSO franchisees. That is why 28 U.S.C. §2201(a) forbids the exercise of this type of discretion by federal district and circuit judges.

Note that Montesquieu warns that franchise courts are the means for introducing what he calls "arbitrary control":

> *"Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator."*

5 How corrupt judges and government prosecutors confuse contexts to unlawfully extend the meaning of words

In the legal field, context is EVERYTHING. Law is about language, and the meaning of words in turn is determined entirely by their context. The last skill most people develop in learning any new subject, including law, is to understand the various contexts in which words can be use and applying the correct context in determining the exact meaning of words.

Understanding the various contexts is difficult because it requires the broadest possible exposure to the subject matter addressed by the word.

Within the legal field, there are two main contexts for the meaning of words:

1. Public v. Private context.
2. Statutory v. Constitutional context.

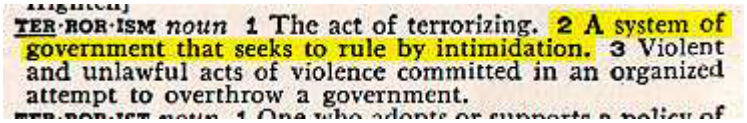
The following sections will individually address these two contexts to improve your comprehension of legal terms when reading and interpreting the law.

5.1 Public v. private context

The purpose for establishing all civil government is the protection of PRIVATE rights. The Declaration of Independence affirms this principle.

> *"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--**That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,** -"*
> *[Declaration of Independence, 1776]*

All the authority delegated to any government derives from the CONSENT of those it governs. Any government that does not respect or protect the requirement for consent of the governed in a civil context is, in fact, a terrorist government.


TER·ROR·ISM *noun* 1 The act of terrorizing. 2 A system of government that seeks to rule by intimidation. 3 Violent and unlawful acts of violence committed in an organized attempt to overthrow a government.

> *[Original (pre-Orwellian) Definition of the Word "Terrorism"*
> *Funk and Wagnalls New Practical Standard Dictionary (1946)]*

The U.S. Supreme Court has held that PRIVATE rights are beyond the legislative power of the state and identifies any so-called "government" that neither recognizes private rights nor protects them as a "vain government". We would add that such a government is NO GOVERNMENT AT ALL, but a TERRORIST MAFIA and criminal extortion ring.

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

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

> *"**It must be conceded that there are [PRIVATE] rights [and property] in every free government beyond the control of the State [or any judge or jury]. A government which recognized no such rights, which held the lives, liberty and property of its citizens, subject at all times to the disposition and unlimited control of even the most democratic depository of power, is after all a despotism.** It is true that it is a despotism of the many--of the majority, if you choose to call it so--but it is not the less a despotism."*
> *[Loan Ass'n v. Topeka, 87 U.S. (20 Wall.) 655, 665 (1874)]*

The first step in protecting private rights is to protect citizens from having their PRIVATE property converted into PUBLIC property without their consent. Governments implement this principle by:

1. Presuming that all your property is PRIVATE property beyond their legislative control until the government meets the burden of proof of showing that you donated it to the 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 [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)]*

2. Not allowing you to consent to alienate private rights, meaning consent to donate PRIVATE rights to the government and therefore converting it to PUBLIC property if you are protected by the Constitution. An "unalienable right" mentioned in the Declaration of Independence is, after all, a right that YOU ARE NOT ALLOWED BY LAW to consent to donate to or give away to a government.

> *"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain* ***unalienable Rights****, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, -"*
> *[Declaration of Independence, 1776]*

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

3. Ensuring that the ONLY people who can donate PRIVATE property to the government and thereby ALIENATE a right are those domiciled on federal territory not protected by the Constitution.

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

4. Enacting civil laws that can and do regulate ONLY:
   4.1. Use of PUBLIC property owned by the government. This includes federal territory and federal chattel property.
   4.2. Conduct of PUBLIC officers within the government.
5. Never enacting a law that gives any government any right or advantage over those governed because all "persons" are equal under the law.

Consistent with the above:

1. The following document proves that all civil law enacted by the government can and does pertain only to public officers on official business and does not pertain to PRIVATE people:

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

2. All "persons" defined in government civil statutes are, in fact, public officers within the government and not private human beings. They are:

2.1. "Officers of a corporation", which corporation is a federal corporation and government instrumentality.
2.2. "Partners" with such a federal corporation who entered into partnership by signing a government form or application.

For proof, see the definitions of "person" found in 26 U.S.C. §6671(b) and 26 U.S.C. §7343, which identify all "persons" within the I.R.C. as employees or officers of a corporation. 5 U.S.C. §2105(a) in turn says that these "employees" are in fact public officers.

> *TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671*
> *§ 6671. Rules for application of assessable penalties*
>
> *(b) Person defined*
>
> *The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, **who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.***
>
> ---
>
> *TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > § 7343*
> *§ 7343. Definition of term "person"*
>
> *The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.*

3. All taxes, fees, or penalties the government charges must always be connected with public offices in the U.S. government. The income tax is upon ONLY those lawfully engaged in a public office in the U.S. government. This activity is defined in the Internal Revenue Code as a "trade or business", which 26 U.S.C. §7701(a)(26) defines as "the functions of a public office".

> *26 U.S.C. §7701(a)(26)*
>
> *"The term 'trade or business' includes [is limited to] the performance of the functions of a public office."*

Judges and government prosecutors are keenly aware of the above limitations and frequently attempt to try to unlawfully and criminally enlarge their jurisdiction by adding things to the definition of "person" or "individual" that do not and cannot expressly appear in the statutes themselves. This is most frequently done by abusing the word "includes" as indicated throughout this pamphlet.

When anyone in government, whether it be a corrupt judge or a government prosecutor, claims that you had a duty under any civil statute to do anything, you should always insist on them meeting the burden of proving that:

1. You lawfully occupied a public office at the time the transaction occurred.
2. You expressly consented to occupy the public office. Otherwise, you are being subjected to involuntary servitude.
3. Your domicile was on federal territory at the time you consented to lawfully occupy the public office.
4. The public office was lawfully created and expressly authorized to be exercised in the place it was exercised as required by 4 U.S.C. §72.
5. The franchise statute imposing the duty expressly authorizes the CREATION of the public office you allegedly occupy.
6. The property that is the subject of the tax or penalty or fee was PUBLIC PROPERTY and BECAME public property by your voluntary consent, if you are the owner.
7. The statutes defining the "person", "individual", or "taxpayer" who is the subject of the tax, fee, or penalty EXPRESSLY INCLUDE PRIVATE human beings. Otherwise, they are presumed to be "purposefully excluded" under the rules of statutory construction.

For further information relating to the subject of this section, please see:

1. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037-why the government can't enact civil law to regulate private human beings.
   http://sedm.org/Forms/FormIndex.htm

2. *Government Instituted Slavery Using Franchises*, Form #05.030-how franchises are unlawfully abused by corrupt rulers to convert all "citizens" and "residents" into public offices in the government.
3. *Proof that There is a "Straw Man"*, Form #05.042-how the "person" in all federal civil law is associated with only public officers.
   http://sedm.org/Forms/FormIndex.htm
4. *The "Trade or Business" Scam*, Form #05.001-why the federal income tax is upon public offices in the government called a "trade or business".
   http://sedm.org/Forms/FormIndex.htm
5. *Why Your Government is Either a Thief or You are a "Public Officer" for Income Tax Purposes*, Form #05.008-why all "taxpayers" are public officers.
   http://sedm.org/Forms/FormIndex.htm
6. *Corporatization and Privatization of the Government*, Form #05.024-how the government has been transformed into a de facto government by turning it into a private corporation that does not recognize private rights.
   http://sedm.org/Forms/FormIndex.htm
7. *De Facto Government Scam*, Form #05.043-why the present government is a fraud because they have turned all "citizens" and "residents" into public officers.
   http://sedm.org/Forms/FormIndex.htm

5.2 Statutory v. constitutional context for geographic terms

It is very important to understand that there are TWO separate, distinct, and mutually exclusive contexts in which geographical "words of art" can be used at the federal or national level:

1. Constitutional.
2. Statutory.

The purpose of providing a statutory definition of a legal "term" is to supersede and not enlarge the ordinary, common law, constitutional, or common meaning of a term. Geographical words of art include:

1. "State"
2. "United States"
3. "alien"
4. "citizen"
5. "resident"
6. "U.S. person"

The terms "State" and "United States" within the Constitution implies the constitutional states of the Union and excludes federal territory, statutory "States" (federal territories), or the statutory "United States" (the collection of all federal territory). This is an outcome of the separation of powers doctrine. See:

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

The U.S. Constitution creates a public trust which is the delegation of authority order that the U.S. Government uses to manage federal territory and property. That property includes franchises, such as the "trade or business" franchise. All statutory civil law it creates can and does regulate only THAT property and not the constitutional States, which are foreign, sovereign, and statutory "aliens" for the purposes of federal legislative jurisdiction.

It is very important to realize the consequences of this constitutional separation of powers between the states and national government. Some of these consequences include the following:

1. Statutory "States" as indicated in 4 U.S.C. §110(d) and "States" in nearly all federal statutes are in fact federal territories and the definition does NOT include constitutional states of the Union.
2. The statutory "United States" defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) includes federal territory and excludes any land within the exclusive jurisdiction of a constitutional state of the Union.
3. Terms on government forms assume the statutory context and NOT the constitutional context.
4. Domicile is the origin of civil legislative jurisdiction over human beings. This jurisdiction is called "in personam

jurisdiction".

5. Since the separation of powers doctrine creates two separate jurisdictions that are legislatively "foreign" in relation to each other, then there are TWO types of political communities, two types of "citizens", and two types of jurisdictions exercised by the national government.

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

6. A human being domiciled in a state and born or naturalized anywhere in the Union is a statutory "alien" in relation to the national government and a non-citizen national pursuant to 8 U.S.C. §1101(a)(21) and 8 U.S.C. §1452.
7. You can be a statutory "alien" pursuant to 26 U.S.C. §7701(b)(1)(A) and a constitutional or Fourteenth Amendment "Citizen" AT THE SAME TIME. Why? Because the Supreme Court ruled in Hooven and Allison v. Evatt, 324 U.S. 652 (1945), that there are THREE different and mutually exclusive "United States", and therefore THREE types of "citizens of the United States". Here is an example:

> *"The 1st section of the 14th article [Fourteenth Amendment], to which our attention is more specifically invited, opens with a definition of citizenship—not only citizenship of the United States[***], but citizenship of the states.* ***No such definition was previously found in the Constitution, nor had any attempt been made to define it by act of Congress.*** *It had been the occasion of much discussion in the courts, by the executive departments and in the public journals.* ***It had been said by eminent judges that no man was a citizen of the [***] except as he was a citizen of one of the states composing the Union. Those therefore, who had been born and resided always in the District of Columbia or in the territories [STATUTORY citizens], though within the United States[*], were not [CONSTITUTIONAL] citizens****."*
> *[Slaughter-House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394 (1873)]*

The "citizen of the United States" mentioned in the Fourteenth Amendment is a constitutional "citizen of the United States", and the term "United States" in that context includes states of the Union and excludes federal territory. Hence, you would NOT be a "citizen of the United States" within any federal statute, because all such statutes define "United States" to mean federal territory and EXCLUDE states of the Union. For more details, see:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

8. Your job, if you say you are a "citizen of the United States" or "U.S. citizen" on a government form (a VERY DANGEROUS undertaking!) is to understand that all government forms presume the statutory and not constitutional context, and to ensure that you define precisely WHICH one of the three "United States" you are a "citizen" of, and do so in a way that excludes you from the civil jurisdiction of the national government because domiciled in a "foreign state". Both foreign countries and states of the Union are legislatively "foreign" and therefore "foreign states" in relation to the national government of the United States. The following form does that very carefully:

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

9. Even the IRS says you CANNOT trust or rely on ANYTHING on any of their forms and publications. We cover this in our Reasonable Belief About Income Tax Liability, Form #05.007. Hence, if you are compelled to fill out a government form, you have an OBLIGATION to ensure that you define all "words of art" used on the form in such a way that there is no room for presumption, no judicial or government discretion to "interpret" the form to their benefit, and no injury to your rights or status by filling out the government form. This includes attaching the following forms to all tax forms you submit:
   9.1. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001
   http://sedm.org/Forms/FormIndex.htm
   9.2. *Tax Form Attachment*, Form #04.201
   http://sedm.org/Forms/FormIndex.htm

6 Background on Due Process of Law

6.1 Definition

All abuse of language ultimately leads to false inferences, beliefs, or presumptions that produce violations of due process of law. This section will provide an overview of due process of law so that you may have the tools to describe what due process violations have occurred as a result of the abuse of language, usually by the government, so that you will have standing to sue for violations of due process. Due process of law is defined as follows:

> ***Due process of law***. *Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and* ***under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs.*** *A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence* ***for the enforcement and protection of private rights.*** *To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance. Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved.* ***If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law.***
>
> *An orderly proceeding wherein a person with notice, actual or constructive, and has an opportunity to be heard and to enforce and protect his rights before a court having the power to hear and determine the case. Kazubowski v. Kazubowski, 45 Ill.2d 405, 259 N.E.2d. 282, 290. Phrase means that no person shall be deprived of life, liberty, property or of any right granted him by statute, unless matter involved first shall have been adjudicated against him upon trial conducted according to established rules regulating judicial proceedings, and it forbids condemnation without a hearing. Pettit v. Penn, LaApp., 180 So.2d. 66, 69. The concept of "due process of law" as it is embodied in the Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought. U.S. v. Smith, D.C.Iowa, 249 F.Supp. 515, 516. Fundamental requisite of "due process of law" is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, and to assert before the appropriate decision-making body the reasons for such choice. Trinity Episcopal Corp. v. Romney, D.C.N.Y., 387 F.Supp. 1044, 1084. Aside from all else, "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883.*
>
> ***Embodied in the due process concept are the basic rights of a defendant in criminal proceedings and the requisites for a fair trial.*** *These rights and requirements have been expanded by Supreme Court decisions and include, timely notice of a hearing or trial which informs the accused of the charges against him or her; the opportunity to confront accusers and to present evidence on one's own behalf before an impartial jury or judge; the presumption of innocence under which* ***guilt must be proven by legally obtained evidence*** *and the verdict must be supported by the evidence presented; rights at the earliest stage of the criminal process; and the guarantee that an individual will not be tried more than once for the same offence (double jeopardy).*
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

As indicated above, the purpose of due process of law is:

1. To protect rights identified within but not granted by the Constitution of the United States.

> *"****The rights of individuals and the justice due to them, are as dear and precious as those of states.*** *Indeed the latter are founded upon the former; and the great end and object of them must be to secure and support the rights of individuals, or else vain is government."*
> *[Chisholm v. Georgia, 2 U.S. (2 Dall.) 419, 1 L.Ed 440 (1793)]*

2. To protect private rights but not public rights. Those engaged in any of the following are not exercising private rights, but public rights:
   2.1. Government franchises.

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

   2.2. Government "benefits". See:

The Government "Benefits" Scam, Form #05.040 http://sedm.org/Forms/FormIndex.htm

   2.3. Public office.
   2.4. "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office".
   2.5. Licensed activities, which are franchises.
3. To prevent litigants before a court of being deprived of their property by the court or their opponent without just compensation. In law, all rights are property and any deprivation of rights without consideration is a deprivation of property in violation of the Fifth Amendment takings clause. Those who violate due process essentially are STEALING from their opponent.

> *"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)]*

4. Prevent presumptions, and especially conclusive presumptions, that may injure the rights of the litigants by insisting that only physical evidence with foundational testimony may form the basis for any inferences by the court or the jury.

> ***"If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law."***
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

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

6.2 How the government routinely and willfully violates due process of law

The most prevalent method for violating due process of law is to make presumptions that:

1. Prejudice the rights of one or more litigants.
2. Are not supported by evidence.
3. Are not required by the judge to be supported by evidence.
4. Are not challenged by those who are injured by the presumption.
5. Are not allowed to be challenged by the judge because he/she deliberately interferes with the admission of evidence by those who are the victim of the presumption. This happens usually because the judge has a financial conflict of interest in violation of 18 U.S.C. §201, 28 U.S.C. §455, and 28 U.S.C. §144.

If you would like to learn more about how the above methods are used to unlawfully extend jurisdiction of the government and prejudice your rights, see:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

The following methods are commonly used by the government to violate due process of law and make you the victim of their false presumptions:

1. Assuming you are engaging in a public office or franchise so that you aren't entitled to due process of law.
2. Refusing to meet or enforce the burden of proof imposed upon the government as moving party to show that you are in fact and in deed engaged in public offices or franchises and therefore not entitled to "due process".
3. Interfering with the introduction of evidence by you that would prove that presumptions they are engaging in which prejudice your rights are false.
4. Presuming or assuming that are domiciled in a place that is not protected by the Constitution and therefore that you have no rights. This includes assuming that you are any of the following:
   4.1. "U.S. persons" as defined in 26 U.S.C. §7701(a)(30) .
   4.2. Statutory "U.S. citizen" pursuant to 8 U.S.C. §1401.
   4.3. Statutory "resident alien" pursuant to 26 U.S.C. §7701(b)(1)(A) .

4.4. Representing a federal corporation domiciled on federal territory where there are no constitutional rights. This includes "public officers" engaged in the "trade or business" franchise.

6.3 How Governments Abuse Language in Statutes and Government Forms to Deliberately Create False Presumptions that Deceive, Injure, and Violate Rights of Readers

Next, we must address the main methods by which government employees abuse language in order to deceive those reading or administering the law. The following primary methods are used:

1. Using the expansive or additive sense of the word "includes" within definitions appearing in the code and falsely claiming that such a use authorizes them to add ANYTHING THEY WANT to the meaning of definition of the term. We cover this later in section 9.8.
2. Deliberately specifying in a statute or form a vague definition or no definition at all of key words, thus:
   2.1. Inviting false presumptions for confusion of what context is intended.
   2.2. Leaving undue discretion to readers, judges, and juries when disputes over meaning occur in order to add whatever they want to the meaning of terms.

   The above approach is discussed later in section 9.5, where we talk about the "Void for Vagueness Doctrine".
3. Abusing words on government forms as follows to confuse the ORDINARY context with the STATUTORY context, both of which are usually MUTUALLY EXCLUSIVE and opposite to each other:
   3.1. Making the reader believe that the word is used in its ORDINARY rather than STATUTORY meaning.
   3.2. Telling the reader that they aren't allowed to trust anything on the form.
   3.3. Refusing to clarify WHICH of the two contexts is intended, or that they are NOT equivalent, in the instructions for the form.
   3.4. When the person who is asked to fill out the form asks the government representative which of the two contexts are intended, maliciously and deliberately refusing to clarify, so that they the government can protect itself from blame for what usually ends up being PERJURY on the form when the person filling it out PRESUMES that the ordinary rather than the STATUTORY meaning applies.
   3.5. Examples of words that fit this category:
      3.5.1. "United States"
      3.5.2. "State"
      3.5.3. "Employee"
      3.5.4. "Income"
4. Abusing words on government forms and statutes to confuse the LEGAL/STATUTORY context with the POLITICAL/CONSTITUTIONAL context, both of which are usually MUTUALLY EXCLUSIVE and opposite to each other:
   4.1. There are two main contexts for "terms": Constitutional and Statutory. These two contexts, in nearly all cases, are MUTUALLY EXCLUSIVE and do not overlap geographically because of the separation of powers doctrine.
   4.2. The CONSTITUTIONAL context of "United States" is a POLITICAL use of the word that includes states of the Union and excludes federal territory, while the STATUTORY context of the term refers to the LEGAL sense of the word and includes federal territory but excludes states of the Union in nearly all cases.
   4.3. An example of such an abuse is to ask you whether you are a "U.S. citizen", assuming it means the LEGAL and STATUTORY sense, but making the reader believe it means the POLITICAL and CONSTITUTIONAL sense. This fraud is exhaustively explained in the following document:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

6.4 Preventing violations of due process of law by government opponents

If you would like to prevent most of the above abuses, we recommend the following defensive weapons:

1. Attaching the following to your initial complaint or response in every action in federal court:
   1.1. *Federal Pleading/Motion/Petition Attachment*, Litigation Tool #01.002 http://sedm.org/Litigation/LitIndex.htm
   1.2. *Rules of Presumption and Statutory Interpretation*, Litigation Tool #01.006 http://sedm.org/Litigation/LitIndex.htm
   1.3. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001 http://sedm.org/Forms/FormIndex.htm

2. Rebutting the use of any license numbers or government numbers that might connect you to federal franchises using the following:
   2.1. *Tax Form Attachment*, Form #04.201-attach to any tax form you are asked to fill out so that your status as other than a franchisee called a "taxpayer" is preserved
   http://sedm.org/Litigation/LitIndex.htm
   2.2. *Why It is Illegal for Me to Request or Use a "Taxpayer Identification Number"*, Form #04.205-use this to explain why you can't lawfully use government numbers and would be committing a crime to do so.
   http://sedm.org/Litigation/LitIndex.htm
3. Not citing statutes implementing federal franchises in your defense and instead basing your action entirely upon the constitution, equity, and equal protection. All you do by citing provisions of a franchise agreement that is voluntary is prove that you are subject to it. Such franchises include but are not limited to:
   3.1. 26 U.S.C.: Internal Revenue Code.
   3.2. 42 U.S.C.: Social Security Act, Medicare, and Unemployment insurance
4. Using your own franchise to defend yourself from theirs and insisting on equal protection. Insist that our government is one of delegated powers and that if they can establish a franchise using their property and their numbers, then you can do so with your property, which includes all information about you and any attempt to demand your services or your response to their correspondence. The following mandatory attachment to all tax forms does this in Section 6 of the form:

Tax Form Attachment, Form #04.201 http://sedm.org/Litigation/LitIndex.htm

5. Challenging the ability of the federal government to enforce federal franchises within states of the Union as both a scam and a violation of the separation of powers doctrine using the following:
   5.1. *The Government "Benefits" Scam*, Form #05.040
   http://sedm.org/Forms/FormIndex.htm
   5.2. *Government Instituted Slavery Using Franchises*, Form #05.030
   http://sedm.org/Forms/FormIndex.htm
   5.3. *The "Trade or Business" Scam*, Form #05.001
   http://sedm.org/Forms/FormIndex.htm
6. Not referring to yourself as a franchisee called a "taxpayer" or a "benefit recipient" and contradicting any attempts by your opponent to do so. See:

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

7. Terminating participation in any and all franchises and introducing evidence that you have terminated participation. See the following for details on how to do this and how to produce evidence that you are not eligible:

SEDM Liberty University, Section 4: Avoiding Government Franchises and Licenses http://sedm.org/LibertyU/LibertyU.htm

8. Introducing the following document into evidence whenever you are either deposed or sent a request for production of documents.

Citizenship, Domicile, and Tax Status Options, Form #10.003 http://sedm.org/Forms/FormIndex.htm

9. Ensuring that you don't make any false presumptions or statements yourself by reading and heeding the following and challenging all those who engage in any of the false presumptions or beliefs identified:
   9.1. *Flawed Tax Arguments to Avoid*, Form #08.004
   http://sedm.org/Forms/FormIndex.htm
   9.2. *Rebutted Version of the IRS "The Truth About Frivolous Tax Arguments"*, Form #08.005
   http://sedm.org/Forms/FormIndex.htm
   9.3. *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

7 Legal Definitions of "includes"

7.1 Internal Revenue Code

26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING.

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

You may examine the original text of the above statute on the Internet at the address below:

http://caselaw.lp.findlaw.com/scripts/ts_search.pl?title=26&sec=7701

7.2 Federal Register

The Department of the Treasury has defined the word "includes" as follows:

Treasury Decision 3980, Vol. 29, January-December, 1927, pgs 64 and 65

"(1) ***To comprise, comprehend, or embrace****…*

(2) To enclose within; contain; confine*…*

*But granting that the word '**including'** is a term of enlargement, it is clear that it **only** performs that office by introducing the **specific elements** constituting the enlargement. It thus, and thus **only**, enlarges the otherwise more **limited, preceding general language**…The word 'including' is obviously used in the sense of its **synonyms**, comprising; comprehending; embracing."*

[Treasury Decision 3980, Vol. 29, January-December, 1927, pgs. 64 and 65;
SOURCE: http://famguardian.org/TaxFreedom/CitesByTopic/includes-TD3980.pdf]

You may look at the original document within which the above definition appears on the internet at:

http://famguardian.org/TaxFreedom/CitesByTopic/includes-TD3980.pdf

7.3 Black's Law Dictionary Definition

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

You may examine the original text of the above statute on the Internet at the address below:

http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.006.pdf

7.4 Bouvier's Law Dictionary Definition

"INCLUDE (Lat. in claudere to shut in, keep within). In a legacy of 'one hundred dollars including money trusted' at a bank, it was held that the word `including' extended only to a gift of one hundred dollars; 132 Mass. 218..."

"INCLUDING. The words `and including' following a description do not necessarily mean `in addition to,' but may refer to a part of the thing described. 221 U.S. 452."

You may examine the original text of the above statute on the Internet at the address below:

http://famguardian.org/Publications/Bouviers/bouvieri.txt

7.5 Supreme Court Interpretation of "includes"

7.5.1 Montello Salt Co. v. Utah, 221 U.S. 452 (1911)

The determining word is, of course the word 'including.' It may have the sense of addition, [221 U.S. 452, 465] as we have seen, and of 'also;' but, we have also seen, 'may merely specify particularly that which belongs to the genus.' Hiller v. United States, 45 C. C. A. 229, 106 Fed. 73, 74. It is the participle of the word 'include,' which means, according to the definition of the Century Dictionary, (1) 'to confine within something; hold as in an inclosure; inclose; contain.' (2) 'To comprise as a part, or as something incident or pertinent; comprehend; take in; as the greater includes the less; . . . the Roman Empire included many nations.' 'Including,' being a participle, is in the nature of an adjective and is a modifier."

...

*"...**The court also considered that the word 'including' was used as a word of enlargement, the learned court being of opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate.** We may concede to 'and' the additive power attributed to it. It gives in connection with 'including' a quality to the grant of 110,000 acres which it would not have had,-the quality of selection from the saline lands of the state. And that such quality would not exist unless expressly conferred we do not understand is controverted. Indeed, it cannot be controverted...."*
[Montello Salt Co. v. Utah, 221 U.S. 452 (1911)]

7.5.2 American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)

*"**In definitive provisions of statutes and other writings, 'include' is frequently, if not generally, used as a word of extension or enlargement [meaning "in addition to"] rather than as one of limitation or enumeration.** Fraser v. Bentel, 161 Cal. 390, 394, 119 P. 509, Ann.Cas. 1913B, 1062; People ex rel. Estate of Woolworth v. S.T. Comm., 200 App.Div. 287, 289, 192 N.Y.S. 772; Matter of Goetz, 71 App.Div. 272, 275, 75 N.Y.S. 750; Calhoun v. Memphis & P.R. Co., Fed. Cas. No. 2,309; Cooper v. Stinson, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with 'shall include,' others with 'shall mean.' The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, 'shall include' is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of 'shall mean' to enumerate and restrict and of 'shall include' to enlarge and extend. Subsection (17) declares 'oath' shall include affirmation, Subsection (19) declares 'persons' shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that 'shall include,' as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of 'shall mean' or 'shall include only.' [287 U.S. 513, 518] There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) 'creditors' should be given the meaning usually attributed to it when used in the common-law definition of fraudulent conveyances. See Coder v. Arts, 213 U.S. 223, 242 , 29 S.Ct. 436, 16 Ann.Cas. 1008; Lansing Boiler & Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; Githens v. Shiffler (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. Yeend v. Weeks, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Mowry v. Reed, 187 Mass. 174, 177, 72 N.E. 936; Stone v. Myers, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; Cook v. Johnson, 12 N.J.Eq. 51, 72 Am.Dec. 381; American Surety Co. v. Hattrem, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; U.S. Fidelity & Guaranty Co. v. Centropolis Bank (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; Thomson v. Crane (C.C.) 73 F. 327, 331."*
[American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]

7.5.3 Rusello v. United States, 464 U.S. 16 (1983)

"This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' "
[Russello v. United States, 464 U.S. 16, 23, 78 L.Ed.2d. 17, 104 S.Ct. 296 (1983)]

7.5.4 Gould v. Gould, 245 U.S. 151 (1917)

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

7.6 27 CFR §72.11

[Code of Federal Regulations]
[Title 27, Volume 1]
[Revised as of April 1, 2006]
From the U.S. Government Printing Office via GPO Access
[CITE: 27CFR72]
[Page 1249-1250]
TITLE 27--ALCOHOL, TOBACCO PRODUCTS AND FIREARMS
CHAPTER I--ALCOHOL AND TOBACCO TAX AND TRADE BUREAU, DEPARTMENT OF THE TREASURY
PART 72_DISPOSITION OF SEIZED PERSONAL PROPERTY--Table of Contents
Subpart B_Definitions
Sec. 72.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. ***The terms ``includes'' and ``including'' do not exclude things not enumerated which are in the same general class.***
[27 CFR §72.11;
SOURCE:
http://a257.g.akamaitech.net/7/257/2422/10apr20061500/edocket.access.gpo.gov/cfr_2006/aprqtr/27cfr72.11.htm]

8 Rules of Statutory Construction and Interpretation

8.1 Courts may not question whether laws passed by the legislature are prudent

In state courts:

"Whether the legislature acted wisely by creating the challenged restriction is not a proper subject for judicial determination. McKinney v. Estate of McDonald, 71 Wash.2d. 262, 264, 427 P.2d. 974 (1967); Port of Tacoma v. Parosa, 52 Wash.2d. 181, 192, 324 P.2d. 438 (1958). The fact that the legislature made no exception for minors does not give rise to some latent judicial power to do so by means of a volunteered additional provision. This is true even if it could be said the legislative omission was inadvertent. State v. Roth, 78 Wash.2d. 711, 715, 479 P.2d. 55 (1971); Boeing v. King County, 75 Wash.2d. 160, 166, 449 P.2d. 404 (1969); State ex rel. Hagan v. Chinook Hotel, 65 Wash.2d. 573, 578, 399 P.2d. 8 (1965); Vannoy v. Pacific Power and Light Company, 59 Wash.2d. 623, 629, 369 P.2d. 848 (1962). If there is a need for such an exception, it must be initiated by the legislature, not by the courts. Boeing v. King County, supra; State ex rel. Hagan v. Chinook Hotel, supra." [7]

And in federal courts:

"The particular need for making the judiciary independent was elaborately pointed out by Alexander Hamilton in the Federalist, No.78, from which we excerpt the following: "The executive not only dispenses the honors, but holds the sword of the community. The Legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, ***has no influence*** *over either the sword or the purse;* ***no direction*** *either of the strength or of the wealth of the society; and* ***can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment."*** [8]

8.2 Meaning of a statute must be sought in the language in which it is framed

"It is elementary that the meaning of a statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, and if the law is within the constitutional authority of the law-making body which passed it, the sole function of the court is to enforce it according to its terms. Lake County v. Rollins, 130 U.S. 662, 670, 671; Bate Refrigerating Co. v. Sulzberger, 157 U.S. 1, 33; United States v. Lexington Mill and Elevator Co., 232 U.S. 399, 409; United States v. Bank, 234 U.S. 245, 258." [9]

On state and federal levels, strict construction and hewing to the law with indifference is a mandate and axiom.

8.3 The Legislative Intent governs

[7] See *Cook v. State*, 83 Wash.2d. 725, 735, 521 P.24 725 (1974).

[8] See *Evans v. Gore*, 253 U.S. 245, 249, 40 S.Ct. 550, 551 (1920).

[9] See *Carminetti v. U.S.*, 242 U.S. 470, 485, 489493 (1916).

Under *Chevron,* and *Brown*, those interpreting statutes must first consider the intent of Congress because

> *"[i]f the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress."*

See *Chevron,* 467 U.S. at 842-43. It is only if the intent of Congress is ambiguous that we defer to a permissible interpretation by the agency. *Chevron,* 467 U.S. at 843.

8.4 Executive agencies may not write regulations that exceed the authority of the statute itself

While executive branch officials may enjoy various delegations of regulatory authority, it is Congress' enactments within which those officials must stay when promulgating regulations. (See *Brown & Williamson v. F.D.A.*, 153 F.3d 155, 160-167 (CA4 1998), affd 529 U.S. 120 (2000) (FDA stripped of tobacco enforcement authority for lack of statutory basis)). Regulation cannot deviate from statute or it is void. The Secretary of the Treasury is bound by statute. Congressional intent is the deciding factor in considering the validity of a regulation. [10] What does not exist in regulation or statute does not exist at all.[11]

Agency power is "not the power to make law. Rather, it is 'the power to adopt regulations to carry into effect ***the will*** *of* ***Congress as expressed*** *by the statute.' "Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 213-14 (1976) (quoting *Manhattan Gen. Equip. Co. v. Commission*, 297 U.S. 129, 134 (1936)). "[I]t [is] the judiciary's duty "to say what the law is." *Marbury v. Madison*, 1 Cranch. 137, 177 (1803) (Marshal, C.J.)." [12] Thus, our initial inquiry is whether Congress intended to subject the Petitioner to the 26 U.S.C. income taxes. (See *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988) (stating that "[i]t is axiomatic that an administrative agency's power to promulgate legislative regulations ***is limited to the authority delegated by Congress");*** *INS v. Chadha,* 462 U.S. 919, 953 n.16, 955 n.19 (1983) (providing that agency action "is always subject to check by the terms of the legislation that authorized it; and if that authority is exceeded it is open to judicial review" and "Congress ultimately controls administrative agencies in the legislation that creates them")).

8.5 The starting point for determining the scope of a statute is the statute itself

The starting point in every case involving construction of a statute is the language of the statute itself. (See *Landreth Timber Co. v. Landreth,* 471 U.S. 681, 685 (1985) (quoting *Blue Chip Stamps v. Manor Drug Stores,* 421 U.S. 723, 756 (1975) (Powell, J., concurring)); *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 173-175 (1994)).

8.6 When confronted with a challenge based on statutory definitions, definitions govern

When a court is confronted with a challenge based on statutory definitions the U.S. Supreme Court is clear in its prescription that the specific terms of such a definition must be "met" to trigger applicability of its related statutes to any particular act, person (natural or otherwise), or thing.

> *"**Metropolitan was** subject to Title VII, however, **only if, at the time** of **the alleged retaliation, it met the statutory definition of** **"employer," to wit:** "a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year." 42 U.S.C. Section(s) 2000e(b). . . . **Statutes must be interpreted, if possible, to give each word some operative effect."*** [13]

[10] See *K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988); *U.S. v. Larinoff*, 431 U.S. 864, 872-873 (1976); *U.S. v. Calamaro*, 354 U.S. 351, 359 (1956); *Koshland v. Helvering*, 298 U.S. 441, 446-447 (1936); *Manhattan General Equip. Co. v. CIA*, 297 U.S. 129, 134, 54 S.Ct. 397, 399 (1936); *Tracy v. Swartout*, 10 Pet. 354, 359 (1836).

[11] See *Carminetti v. U.S.*, 242 U.S. 470, 485, 489-493 (1916), citing (on 485) *Lake County* v. *Rollins*, 130 U.S. 662, 670, 671; *Bate Refrigerating Co. v. Sulzberger*, 157 U.S. 1, 33; *U.S. v. Lexington Mill and Elevator Co.*, 232 U.S. 399, 409; *U.S. v. Bank*, 234 U.S. 245, 258; *Security Bank of Minnesota v. CIS.*, 994 F.2d. 432, 436 (CA8 1993); *Washington Red Raspberry Comm'n v. U.S.*, 657 F.Supp. 537, 545 (1987); *Forging Industry Ass 'n v. Secretary of Labor*, 748 F.2d. 211, 213 (1984); *Community for Creative Nonviolence v. Kerrigan*, 865 F.2d. 382, 387-91 (1988); *Iglesias v. U.S.*, 848 F.2d. 362, 367 (CA2 1988); *Bank of New York v. U.S.*, 471 F.2d. 247, 250 (CA8 1973); *Fidelity Philadelphia Trust Co. v. U.S.*, 122 F.Supp. 551, 553 at [3,4].

[12] See *U.S. v. Lopez*, 514 U.S. 549, 115 S.Ct. 1624, 1633 (1995).

[13] See *Walters v. Metropolitan Enterprises, Inc. et al.*, 519 U.S. 202 (1997).

`. . . Thus, ***Congress did not reach every transaction*** *in which an investor actually relies on inside information.* ***person avoids liability if he does not meet the statutory definition*** *of* ***an*** *"insider[.]"* [14]

"On its face, this is an attractive argument. ***Petitioner urges that, in view of the severity of the result flowing from a denial of suspension of deportation, we should interpret the statute by resolving all doubts in the applicant's favor.*** *Cf. United States v. Minker, 350 U.S. 179, 187-188.* ***But we must adopt the plain meaning of a statute, however severe the consequences.*** *Cf. Galvan v. Press, 347 U.S. 522, 528."*[15]

*"**The wording of the federal statute plainly places the incidence of the tax upon the "producer," that is, by definition, upon federally licensed distributors of gasoline such as petitioner. . . . The congressional purpose to lay the tax on the "producer" and only upon the "producer" could not be more plainly revealed.** Persuasive also that such was Congress' purpose is the fact that, if the producer does not pay the tax, the Government cannot collect it from his vendees; **the statute has no provision making the vendee liable** for **its payment.** First Agricultural Nat. Bank v. Tax Comm 'n, supra, at 347."* [16]

*"**A purpose** to subject aliens, much less citizens, to a **police practice so dangerous to individual liberty as this** should not be read into an Act of Congress **in the absence** of **a clear and unequivocal congressional mandate.** I think the Act relied on here by the Department of Justice should not be so read. I **would hold that immigration** officers are **wholly without statutory authority to summon persons,** whether suspects or not, **to testify in private as "witnesses" in denaturalization matters.** For this reason I concur in the Court's judgment in this case."*[17]

*"**Conspicuously absent from § 1415(e)(3), however, is any emergency exception for dangerous students This absence is all the more telling in light of the injunctive decree** issued in PARC, which permitted school officials unilaterally to remove students in "'extraordinary circumstances." 343 F.Supp. at 301. Given the lack of any similar exception in Mills and the close attention Congress devoted to these "landmark" decisions, see S.Rep. at 6,* ***we can only conclude that the omission was intentional; we are therefore not at liberty to engraft onto the statute an exception Congress chose not to create.***"[18]

*"**It is axiomatic that the statutory definition of the term excludes unstated meanings of** that term. Colautti v. Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed in other legislation, has no pejorative connotation.* ***As judges, it is our duty to construe legislation as it is, written, not as it might be read by a layman, or as it might be understood by someone who has not even read it. If the term "political propaganda" is construed consistently with the neutral definition contained in the text of the statute itself, the constitutional concerns voiced by the District Court completely disappear."*** [19]

"As we ***have explained with reference to the technical definition*** *of "child" contained within this statute:*

> *With respect to each of these legislative policy distinctions, it could be argued that the line should have been drawn at a different point and that the statutory definitions deny preferential status to [some] who share strong family ties. . . . But it is clear from our cases ... that these are policy questions entrusted exclusively to the political branches of our Government,* ***and we have no judicial authority to substitute our political judgment for that of*** *the Congress.*

Fiallo v. Bell, 430 U.S. 787, 798 (1977). Thus, even if Hector's relationship with her nieces closely resembles a parent-child relationship, we are constrained to hold that ***Congress, through the plain language of the statute, precluded this functional approach*** *to defining the term[.]"*[20]

*"**Although agencies must be "able to change to meet new conditions arising within their sphere of authority," any expansion of agency jurisdiction must come from Congress, and not the agency itself.** 744 F.2d. at 1409. Accordingly, the Court of Appeals invalidated the amended regulations."* [21]

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[14] See *Reliance Elec. Co. v. Emerson Elec. Co.*, 404 U.S. 418, 422 (1972),

[15] See *Jay v. Boyd*, 352 U.S. 345, 357 (1956).

[16] See *Gurley v. Rhoden*, 421 U.S. 200, 205 (1975).

[17] *See U.S. v. Minker*, 350 U.S. 179, 192 *(1956).*

[18] See *Honig v. Doe*, 484 U.S. 305, 324 (1988).

[19] See *Meese v. Keene*, 481 U.S. 465, 484 (1987).

[20] See *INS v. Hector*, 479 U.S. 85, 88 (per curiam opinion) (1986).

[21] See *FRS v. Dimensional Financial Corp.*, 474 U.S. 361, 365 (1986).

> ***"If Congress had intended the more circumscribed approach espoused by the Court of Appeals, there would have been some positive sign that the law was not to reach organized criminal activities that give rise to the concerns about infiltration. The language** of **the statute, however -- the most reliable evidence** of **its intent --** reveals that Congress opted for a far broader definition of the word "enterprise," and we are unconvinced by anything in the legislative history that this definition should be given less than its full effect."* [22]

8.7 Maxims of Law on Statutory Construction and Interpretation

The maxims of law appearing in this section deal with the rules of statutory construction and interpretation. They are derived from the following:

Bouvier's Maxims of Law, 1856 http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm

The subset of maxims extracted from the above dealing directly and only with the subject of the construction and interpretation of law are summarized below:

1. Law

1.1. Jus est ars boni et aequi. Law is the science of what is good and evil. Dig. 1, 1, 1, l.
1.2. Non obligat lex nisi promulgata. A law is not obligatory unless it be promulgated.
1.3. Legibus sumptis disinentibus, lege naturae utendum est. When laws imposed by the state fail, we must act by the law of nature. 2 Roll. R. 298.
1.4. Lex est norma recti. Law is a rule of right.
1.5. Lex nemini facit injuriam. The law does wrong to no one.
1.6. Nemo debet rem suam sine facto aut defectu suo amittere. No one should lose his property without his act or negligence. Co. Litt. 263.
1.7. Non est certandum de regulis juris. There is no disputing about rules of law.
1.8. Non Licet quod dispendio licet. That which is permitted only at a loss, is not permitted to be done. Co. Litt. 127.
1.9. Nulli enim res sua servit jure servitutis. No one can have a servitude over his own property. Dig. 8, 2, 26; 17 Mass. 443; 2 Bouv. Inst. n. 1600.
1.10. Perpetua lex est, nullam legem humanum ac positivam perpetuam esse; et clausula quae abrogationem excludit initio non valet. It is a perpetual law that no human or positive law can be perpetual; and a clause in a law which precludes the power of abrogation is void ab initio. Bacon's Max. in Reg. 19.
1.11. Protectio trahit subjectionem, subjectio projectionem. Protection draws to it subjection, subjection, protection. Co. Litt. 65.
1.12. Quod alias bonum et justum est, si per vim vel fraudem petatur, malum et injustum efficitur. What is otherwise good and just, if sought by force or fraud, becomes bad and unjust. 3 Co. 78.
1.13. Quod meum est sine me auferri non potest. What is mine cannot be taken away without my consent. Jenk. Cent. 251. Sed vide Eminent Domain.
1.14. Salus populi est suprema lex. The safety of the people is the supreme law. Bacon's Max. in Reg. 12; Broom's Max. 1.

2. Interpetation of law

2.1. Non refert quid ex aequipolentibus fiat. What may be gathered from words of tantamount meaning, is of no consequence when omitted. 5 Co. 122.
2.2. Non temere credere, est nervus sapientae. Not to believe rashly is the nerve of wisdom. 5 Co. 114.
2.3. Omnis interpretatio si fieri potest ita fienda est in instrumentis, ut omnes contrarietates amoveantur. The interpretation of instruments is to be made, if they will admit of it, so that all contradictions may be removed. Jenk. Cent. 96.
2.4. Optimus interpretandi modus est sic legis interpretare ut leges legibus accordant. The best mode of interpreting laws is to make them accord. 8 Co. 169.
2.5. A verbis legis non est recedendum. From the words of the law there must be no departure. Broom's Max. 268; 5 Rep. 119; Wing. Max. 25.
2.6. Augupia verforum sunt judice indigna. A twisting of language is unworthy of a judge. Hob. 343.
2.7. Clausula inconsuetae semper indicunt suspicionem. Unusual clauses always induce a suspicion. 3 Co. 81.

[22] See *U.S. v. Turkette*, 452 U.S. 576, 593 (1981).

2.8. Construction legis non facit injuriam. The construction of law works not an injury. Co. Litt. 183; Broom's Max. 259.
2.9. Copulatio verborum indicat acceptionem in eodem sensu. Coupling words together shows that they ought to be understood in the same sense. Bacom's Max. in Reg. 3.
2.10. Cum duo inter se pugnantia reperiuntur in testamento ultimum ratum est. When two things repugnant to each other are found in a will, the last is to be confirmed. Co. Litt. 112.
2.11. Curiosa et captiosa intepretatio in lege reprobatur. A curious and captious interpretation in the law is to be reproved. 1 Buls. 6.
2.12. Designatio unius est exclusio alterius, et expressum facit cessare tacitum. The appointment or designation of one is the exclusion of another; and that expressed makes that which is implied cease. Co. Litt. 210.
2.13. Ea est accipienda interpretation, qui vitio curet. That interpretation is to be received, which will not intend a wrong. Bacon's Max. Reg. 3, p. 47.
2.14. Expressa nocent, non expressa non nocent. Things expressed may be prejudicial; things not expressed are not. See Dig. 50, 17, 195.
2.15. Expressio unius est exclusio alterius. The expression of one thing is the exclusion of another.
2.16. Expressum facit cessare tacitum. What is expressed renders what is implied silent.
2.17. Fraus latet in generalibus. Fraud lies hid in general expressions.
2.18. Generale nihil certum implicat. A general expression implies nothing certain. 2 Co. 34.
2.19. Idem est non probari et non esse; non deficit jus, sed probatio. What does not appear and what is not is the same; it is not the defect of the law, but the want of proof.
2.20. Ignorantia terminis ignoratur et ars. An ignorance of terms is to be ignorant of the art. Co. Litt. 2.
2.21. In conjunctivis oportet utramque partem esse veram. In conjunctives each part ought to be true. Wing. 13.
2.22. In contractibus, benigna; in testamentis, benignior; in restitutionibus, benignissima interpretatio facienda est. In contracts, the interpretation or construction should be liberal; in wills, more liberal; in restitutions, more liberal. Co. Litt. 112.
2.23. In disjunctivis sufficit alteram partem esse veram. In disjunctives, it is sufficient if either part be true. Wing. 15.
2.24. In dubiis non praesumitur pro testamento. In doubtful cases there is no presumption in favor of the will. Cro. Car. 51.
2.25. In dubio pars melior est sequenda. In doubt, the gentler course is to be followed.
2.26. In eo quod plus sit, semper inest et minus. The less is included in the greater. 50, 17, 110.
2.27. In obscuris, quod minimum est, sequitur. In obscure cases, the milder course ought to be pursued. Dig. 50, 17, 9.
2.28. In re dubiâ magis inficiato quam affirmatio intelligenda. In a doubtful matter, the negative is to be understood rather than the affirmative. Godb. 37.
2.29. In toto et pars continetur. A part is included in the whole. Dig. 50, 17, 113.
2.30. Incerta pro nullius habentur. Things uncertain are held for nothing Dav. 33.
2.31. Injuria non praesumitur. A wrong is not presumed. Co. Litt. 232.
2.32. Interpretare et concordare leges legibus est optimus interpretandi modus. To interpret and reconcile laws so that they harmonize is the best mode of construction. 8 Co. 169.
2.33. Interpretatio fienda est ut res magis valeat quam pereat. That construction is to be made so that the subject may have an effect rather than none. Jenk. Cent. 198.
2.34. Interpretatio talis in ambiguis semper fienda, ut evitetur inconveniens et absurdum. In ambiguous things, such a construction is to be made, that what is inconvenient and absurd is to be avoided. 4 Co. Inst. 328.
2.35. Legis constructio non facit injuriam. The construction of law does no wrong. Co. Litt. 183.
2.36. Lex rejicit superflua, pugnantia, incongrua. The law rejects superfluous, contradictory and incongruous things.
2.37. Maximè paci sunt contraria, vis et tnjuria. The greatest enemies to peace are force and wrong. Co. Litt. 161.
2.38. Multitudo errantium non parit errori patrocinium. The multitude of those who err is no excuse for error. 11 Co. 75.
2.39. Negatio duplex est affirmatio. A double negative is an affirmative.
2.40. Nobiliores et beniginores presumptiones in dubiis sunt praeferendae. When doubts arise the most generous and benign presumptions are to be preferred.
2.41. Non differunt quae concordant re, tametsi non in verbis iisdem. Those things which agree in substance though not in the same words, do not differ. Jenk. Cent. 70.
2.42. Proprietas verborum est salus proprietatum. The propriety of words is the safety of property.
2.43. Quae communi legi derogant stricte interpretantur. Laws which derogate from the common law ought to be strictly construed. Jenk. Cent. 231.

2.44. Quae dubitationis causâ tollendae inseruntur communem legem non laedunt. Whatever is inserted for the purpose of removing doubt, does not hurt or affect the common law. Co. Litt. 205.
2.45. Quando aliquid prohibetur ex directo, prohibetur et per obliquum. When anything is prohibited directly, it is prohibited indirectly. Co. Litt. 223.
2.46. Quando verba et mens congruunt, non est interpretationi locus. When the words and the mind agree, there is no place for interpretation.
2.47. Quod dubitas, ne feceris. When you doubt, do not act.
2.48. Quod in uno similium valet, valebit in altere. What avails in one of two similar things, will avail in the other. co. Litt. 191.
2.49. Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit. Whenever there is a doubt between liberty and slavery, the decision must be in favor of liberty. Dig. 50, 17, 20.
2.50. Quoties in verbis nulla est ambiguitas ibi nulla expositio contra verba fienda est. When there is no ambiguity in the words, then no exposition contrary to the words is to be made. Co. Litt. 147.
2.51. Sensus verborum est anima legis. The meaning of words is the spirit of the law. 5 Co. 2.
2.52. Si a jure discedas vagus eris, et erunt omnia omnibus incerta. If you depart from the law, you will wander without a guide, and everything will be in a state of uncertainty to every one. Co. Litt. 227.
2.53. Sic interpretandum est ut verba accipiantur cum effectu. Such an interpretation is to be made, that the words may have an effect.
2.54. Talis non est eadem, nam nullum simile est idem. What is like is not the same, for nothing similar is the same. 4 Co. 18.
2.55. Tout ce que la loi ne defend pas est permis. Everything is permitted, which is not forbidden by law.
2.56. Ubi lex non distinguit, nec nos distinguere debemus. Where the law does not distinguish, we ought not to distinguish. 7 Co. 5.
2.57. Vreba aliquid operari debent, verba cum effectu sunt accipienda. Words are to be taken so as to have effect. Bacon's Max. Reg. 3, p. 47. See 1 Duer. on ins. 210, 211, 216.
2.58. Verba nihil operandi melius est quam absurde. It is better that words should have no operation, than to operate absurdly.

3. Vague laws

3.1. Incerta pro nullius habentur. Things uncertain are held for nothing Dav. 33.
3.2. Res est misera ubi jus est vagam et invertum. It is a miserable state of things where the law is vague and uncertain. 2 Salk. 512.
3.3. Si a jure discedas vagus eris, et erunt omnia omnibus incerta. If you depart from the law, you will wander without a guide, and everything will be in a state of uncertainty to every one. Co. Litt. 227.
3.4. Ubi jus incertum, ibi jus nullum. Where the law is uncertain, there is no law.
3.5. Verba nihil operandi melius est quam absurde. It is better that words should have no operation, than to operate absurdly.

4. Equity

4.1. Consensus tollit errorem. Consent removes or obviates a mistake. Co. Litt. 126.
4.2. Iniquum est ingenuis hominibus non esse liberam rerum suarum alienationem. It is against equity to deprive freeman of the free disposal of their own property. Co. Litt. 223. See 1 Bouv. Inst. n. 455, 460.
4.3. Nihil in lege intolerabilius est, eandem rem diverso jure censeri. Nothing in law is more intolerable than to apply the law differently to the same cases. 4 Co. 93.
4.4. Parum differunt quae re concordant. Thing differ but little which agree in substance. 2 Buls. 86.
4.5. Perpetuities are odious in law and equity.
4.6. Prima pars aequitatis aequalitas. The radical element of justice is equality.
4.7. Quod ad jus naturale attinet, omnes homenes aequales sunt. All men are equal before the natural law. Dig. 50, 17, 32.
4.8. Ratio in jure aequitas integra. Reason in law is perfect equity.
4.9. Regula pro lege, si deficit lex. In default of the law, the maxim rules.
4.10. Rerum suarum quilibet est moderator et arbiter. Every one is the manager and disposer of his own. Co. Litt. 233.
4.11. Scientia et volunti non fit injuria. A wrong is not done to one who knows and wills it.

5. Judicial Discretion

5.1. Optima est lex, quae minimum relinquit arbitrio judicis. That is the best system of law which confides as little as possible to the discretion of the judge. Bac. De Aug. Sci. Aph. 46.

5.2. Optimam esse legem, quae minimum relinquit arbitrio judicis; id quod certitudo ejus praestat. That law is the best which leaves the least discretion to the judge; and this is an advantage which results from certainty. Bacon, De Aug. Sc. Aph. 8.

5.3. Optimus judex, qui minimum sibi. He is the best judge who relies as little as possible on his own discretion. Bac. De Aug. Sci. Aph. 46.

8.8 U.S. Supreme Court Rules of Statutory Construction

This following subsections shall list quotes from rulings of the U.S. Supreme Court on the subject of the meaning of the rules of statutory construction and the significance of the words "includes" and "including". The subsections are sequenced in descending date order, where the most recent ruling is listed first. If you identify other pertinent cases, please point them out to us.

8.8.1 Scheidler v. National Organization for Women, 537 U.S. 393 (2003)

> *"Absent contrary direction from Congress, we begin our interpretation of statutory language with the general presumption that a statutory term has its common law meaning. See Taylor v. United States, 495 U.S. 575, 592 (1990); Morissette v. United States, 342 U.S. 246, 263 (1952)."*
> *[Scheidler v. National Organization for Women, 537 U.S. 393 (2003)]*

8.8.2 U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200 (2001)

> *It is, of course, true that statutory construction "is a holistic endeavor" and that the meaning of a provision is "clarified by the remainder of the statutory scheme ... [when] only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law."* United Sav. Assn. of Tex. v. Timbers of Inwood Forest Associates, Ltd., *484 U.S. 365, 371, 108 S.Ct. 626, 98 L.Ed.2d. 740 (1988). The Company's examples leave little doubt that the Government's rule generates a degree of arbitrariness in the operation of the tax statutes. But in* Nierotko's *context, an inflexible rule allocating backpay to the year it is actually paid would never work to the employee's advantage; it could inure only to the detriment of the employee, counter to the **1444 thrust of the benefits eligibility provisions*[23] *In this case, by contrast, there is no comparable structural unfairness in taxation. The Government's rule sometimes disadvantages the taxpayer, as in this case. Other times it works to the disadvantage of the fisc, as the Company's examples show. The anomalous results to which the Company points must be considered in light of Congress' evident interest in reducing complexity and minimizing administrative confusion within the FICA and FUTA tax schemes. See supra, at 1441-1442. Given the practical administrability concerns that underpin the tax provisions, we cannot say that the Government's rule is incompatible with the statutory scheme. The most we can say is that Congress intended the tax provisions to be both efficiently administrable and fair, and that this case reveals the tension that sometimes exists when Congress seeks to meet those twin aims.*

> *Confronted with this tension, "we do not sit as a committee of revision to perfect the administration of the tax laws."* United States v. Correll, *389 U.S. 299, 306-307, 88 S.Ct. 445, 19 L.Ed.2d. 537 (1967). Instead,*219 we defer to the Commissioner's regulations as long as they "implement the congressional mandate in some reasonable manner."* Id., *at 307, 88 S.Ct. 445. "We do this because Congress has delegated to the [Commissioner], not to the courts, the task of prescribing all needful rules and regulations for the enforcement of the Internal Revenue Code."* National Muffler Dealers Assn., Inc. v. United States, *440 U.S. 472, 477, 99 S.Ct. 1304, 59 L.Ed.2d. 519 (1979) (citing* Correll, *389 U.S., at 307, 88 S.Ct. 445 (citing 26 U.S.C. § 7805(a))). This delegation "helps guarantee that the rules will be written by 'masters of the subject' ... who will be responsible for putting the rules into effect."* *440 U.S., at 477, 99 S.Ct. 1304 (quoting* United States v. Moore, *95 U.S. 760, 763, 24 L.Ed. 588 (1877)).*
> *[U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 121 S.Ct. 1433 (U.S.,2001)]*

8.8.3 E.E.O.C. v. North Gibson School Corp., 266 F.3d 607 (2001)

> *The district court is empowered to grant the relief sought by the EEOC under 29 U.S.C. § 217, a provision of the Fair Labor Standards Act, which is incorporated by reference into the ADEA under 29 U.S.C. § 626(b). However, in order to give effect to the structure of the ADEA as enacted by Congress, we must look to the ADEA in its entirety in order to interpret the incorporation of § 217.* See United States v. Cleveland Indians Baseball Co., *532 U.S. 200, 121 S.Ct. 1433, 1443, 149 L.Ed.2d. 401 (2001) ("It is, of course, true that statutory construction is a holistic endeavor and that the meaning of a provision is clarified by the remainder of the statutory scheme ... [when] only one of the permissible meanings produces a substantive effect that is*

[23] The SSA has interpreted its regulation governing "[b]ack pay under a statute," 20 CFR § 404.1242(b) (2000), to allow the employee to choose whether to allocate the backpay to the year it is paid or to the year it should have been paid. Social Security Administration, Reporting Back Pay and Special Wage Payments to the Social Security Administration 2, Pub. 957 (Sept.1997).

compatible with the rest of the law." (quotation marks omitted)). The ADEA requires individual charges of discrimination and provides statutory periods for filing the charges. The distinctive enforcement scheme of the ADEA prohibits the EEOC from obtaining monetary relief for individuals who cannot obtain that relief themselves because they have not filed timely charges. Thus, we cannot interpret the provision of the ADEA that authorizes injunctive relief in such a way as to allow the EEOC to avoid that prohibition by obtaining the same relief in the form of an injunction.
[E.E.O.C. v. North Gibson School Corp., 266 F.3d 607 (C.A.7 (Ind.),2001)]

8.8.4 Circuit City Stores v. Adams, 532 U.S. 105, 114-115 (2001)

KeyCite Notes

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k187 Meaning of Language
361k194 k. General and Specific Words and Provisions. Most Cited Cases

*Under rule of "ejusdem generis," where general words follow specific words in statutory enumeration, general words are construed to embrace **only** objects similar in nature to those objects enumerated by preceding specific words.*
[Circuit City Stores v. Adams, 532 U.S. 105, 114-115 (2001), Headnotes under Westlaw]

8.8.5 Fischer v. United States, 529 U.S. 667 (2000)

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

8.8.6 Stenberg v. Carhart, 530 U.S. 914 (2000)

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

8.8.7 United States v. Johnson, 529 U.S. 53 (2000)

"The rule of lenity does not alter the analysis. Absent ambiguity, the rule of lenity is not applicable to guide statutory interpretation. Cf. Gozlon-Peretz v. United States, 498 U.S. 395, 410 (1991)."
[United States v. Johnson, 529 U.S. 53 (2000)]

8.8.8 Gustafson v. Alloyd Co., 513 U.S. 561 (1995)

"…a word is known by the company it keeps (the doctrine of noscitura sociis). This rule we rely upon to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving "unintended breadth to the Acts of Congress." Jarecki v. G. D. Searle & Co., 367 U.S. 303, 307 (1961)"
[Gustafson v. Alloyd Co. (93-404), 513 U.S. 561 (1995)]

8.8.9 Estate of Cowart v. Nicklos Drilling Co., 505 U.S. 469, 120 L.Ed.2d. 379, 112 S.Ct. 2589 (1992)

"In a statutory construction case, the beginning point must be the language of the statute, and when a statute speaks with clarity to an issue, judicial inquiry into the statute's meaning--in all but the most extraordinary circumstance--is finished; courts must give effect to the clear meaning of statutes as written."

[Estate of Cowart v. Nicklos Drilling Co., 505 U.S. 469, 120 L.Ed.2d. 379, 112 S.Ct. 2589 (1992)]

8.8.10 Connecticut National Bank v. Germain, 503 U.S. 249 (1992)

"When the words of a statute are unambiguous, the first canon of statutory construction--that courts must presume that a legislature says in a statute what it means and means in a statute what it says there--is also the last, and judicial inquiry is complete."
[Connecticut National Bank v. Germain, 503 U.S. 249 (1992)]

8.8.11 Freytag v. Commissioner, 501 U.S. 868 (1991)

"When the terms of a statute are unambiguous, judicial inquiry is complete except in rare and exceptional circumstances."
[Freytag v. Commissioner, 501 U.S. 115 L.Ed.2d. 764 (1991)]

8.8.12 Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991)

By itself, the phrase "all other law" indicates no limitation. The circumstance that the phrase "all other law" is in addition to coverage for "the antitrust laws" does not detract from this breadth. ***There is a canon of statutory construction which, on first impression, might seem to dictate a different result. Under the principle of*** **ejusdem generis,** ***when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration. See*** **Arcadia v. Ohio Power Co.,** ***498 U.S. 73, 84-85, 111 S.Ct. 415, 422, 112 L.Ed.2d. 374 (1990).*** *The canon does not control, however, when the whole context dictates a different conclusion. Here, there are several reasons the immunity provision cannot be interpreted to apply only to antitrust laws and similar statutes. First, because "[r]epeals of the antitrust laws by implication from a regulatory statute are strongly disfavored,"* United States v. Philadelphia Nat. Bank, *374 U.S. 321, 350, 83 S.Ct. 1715, 1734, 10 L.Ed.2d. 915 (1963), Congress may have determined that it should make a clear and separate statement to include antitrust laws within the general exemption of § 11341(a). Second, the otherwise general term "all other law" "includ [es]" (but is not limited to) "State and municipal law." This shows that "all other law" refers to more than laws related to antitrust. Also, the fact that "all other law" entails more than "the antitrust laws," but is not limited to "State and municipal law," reinforces the conclusion, inherent in the **1164 word "all," that the phrase "all other law" includes federal law other than the antitrust laws. In short, the immunity provision in § 11341 means what it says: A carrier is exempt from* all law *as necessary to carry out an ICC-approved transaction.*
[Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991)]

8.8.13 Meese v. Keene, 481 U.S. 465, 484 (1987)

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

8.8.14 American Tobacco Co. v. Patterson, 456 U.S. 63 (1982)

"It is not a function of the United States Supreme Court to sit as a super-legislature and create statutory distinctions where none were intended."
[American Tobacco Co. v. Patterson, 456 U.S. 63, 71 L.Ed.2d. 748, 102 S.Ct. 1534 (1982)]

8.8.15 CBS, Inc. v. FCC, 453 U.S. 367 (1981)

We have held that "the construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong, especially when Congress has refused to alter the administrative construction." Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 381, 89 S.Ct. 1794, 1801-1802, 23 L.Ed.2d. 371 (1969) (footnotes omitted). Accord, Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. 94, 121, 93 S.Ct. 2080, 2095-2096, 36 L.Ed.2d. 772 (1973). Such deference "is particularly appropriate where, as here, an agency's interpretation involves issues of considerable public controversy, and Congress has not acted to correct any misperception of its statutory objectives." United States v. Rutherford, 442 U.S. 544, 554, 99 S.Ct. 2470, 2476, 61 L.Ed.2d. 68 (1979).
[CBS, Inc. v. FCC, 453 U.S. 367 (1981)]

8.8.16 Product Safety Comm'n v. GTE Sylvania, 447 U.S. 102 (1980)

"The starting point for interpreting a statute is the language of the statute itself; absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive."
[Product Safety Comm'n v. GTE Sylvania, 447 U.S. 102, 64 L.Ed.2d. 766, 100 S.Ct. 2051 (1980)]

8.8.17 Touche Ross Co. v. Redington, 442 U.S. 560, 99 S.Ct. 2479, 61 L.Ed.2d. 82 (1979)

"And as with any case involving the interpretation of a statute, our analysis must begin with the language of the statute itself. Cannon v. University of Chicago, supra, at 689, 99 S.Ct. at 1953; Teamsters v. Daniel, 439 U.S. 551, 558, 99 S.Ct. 790, 795-796, 58 L.Ed.2d. 808 (1979); Santa Fe Industries, Inc. v. Green, 430 U.S. 462, 472, 97 S.Ct. 1292, 1300, 51 L.Ed.2d. 480 (1977); Piper v. Chris-Craft Industries, Inc., 430 U.S. 1, 24, 97 S.Ct. 926, 940, 51 L.Ed.2d. 124 (1977); Ernst & Ernst v. Hochfelder, 425 U.S. 185, 197, 96 S.Ct. 1375, 1382, 47 L.Ed.2d. 668 (1976)."
[Touche Ross Co v. Redington, 442 U.S. 560, 99 S.Ct. 2479, 61 L.Ed.2d. 82 (1979)]

8.8.18 Colautti v. Franklin, 439 U.S. 379 (1979)

*"As a rule, `**a definition which declares what a term "means" . . . excludes any meaning that is not stated**'"*
[Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]

8.8.19 Richards v. United States, 369 U.S. 1, 9, 7 L.Ed.2d. 492, 82 S.Ct. 585 (1962)

"As in all cases involving statutory construction, "our starting point must be the language employed by Congress," Reiter v. Sonotone Corp., 442 U.S. 330, 337, 60 L.Ed.2d. 931, 99 S.Ct. 2326 (1979), and we assume that the legislative purpose is expressed by the ordinary meaning of the words used."
[Richards v. United States, 369 U.S. 1, 9, 7 L.Ed.2d. 492, 82 S.Ct. 585 (1962)]

8.8.20 Jarecki v. G. D. Searle & Co., 367 U.S. 303, 81 S.Ct. 1579 (U.S. 1961)

We look first to the face of the statute. 'Discovery' is a word usable in many contexts and with various shades of meaning. Here, however, it does not stand alone, but gathers meaning from the words around it. ***These words strongly suggest that a precise and narrow application was intended in s 456****. The three words in conjunction, 'exploration,' 'discovery' and 'prospecting,' all describe income-producing activity in the oil and gas and mining industries, but it is difficult to conceive of any other industry to which they all apply. Certainly the development and manufacturer of drugs and cameras are not such industries.* ***The maxim noscitur a sociis, that a word is known by the company it keeps, while not an inescapable rule, is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to the Acts of Congress. See, e.g., Neal v. Clark, 95 U.S. 704, 708-709, 24 L.Ed. 586. The application of the maxim here leads to the conclusion that 'discovery' in s 456 means only the discovery of mineral resources.***

*When we examine further the construction of s 456(a)(2) and compare subparagraphs (B) and (C), it becomes unmistakably clear that 'discovery' was not meant to include the development of patentable products. If 'discovery' were so wide in scope, there would be no need for the provision in subparagraph (C) for 'Income from the sale of patents, formulae, or processes.' All of this income, under taxpayers' reading of 'discovery,' would also be income 'resulting from * * * discovery' within subparagraph (B). To borrow the homely metaphor of Judge Aldrich in the First Circuit, 'If there is a big hole in the fence for the big cat, need there be a small hole for the small one?' (278 F.2d. 153). The statute admits a reasonable construction which gives effect to all of its provisions. In these circumstances we will not adopt a strained reading*308 which renders one part a mere redundancy. See, e.g., United States v. Menasche, 348 U.S. 528, 538-539, 75 S.Ct. 513, 519-520, 99 L.Ed. 615.*

*Taxpayers assert that it is the 'ordinary meaning' of 'discovery' which must govern. We find ample evidence both on the face of the statute and, as we shall show, in its legislative history that a technical usage was intended. But even if we were without such evidence we should find it difficult to believe that Congress intended to apply the layman's meaning of 'discovery' to describe the products of research. To do so would lead to the necessity of drawing a line between things found and things made, for in ordinary present-day usage things revealed are discoveries, but new fabrications are inventions.[FN3] It would appear senseless for Congress to adopt this usage, to provide relief for **1583 income from discoveries and yet make no provision for income from inventions. Perhaps in the patent law 'discovery' has the uncommonly wide meaning taxpayers suggest, but the fields of patents and taxation are each lores unto themselves, and the usage in the patent law (which is by no means entirely in taxpayers' favor)[FN4] is unpersuasive here. All the evidence is *309 to the effect that Congress did not intend to introduce the difficult distinction between inventions and discoveries into the excess profits tax law.*
[Jarecki v. G. D. Searle & Co., 367 U.S. 303, 81 S.Ct. 1579 (U.S. 1961)]

8.8.21 Federal Trade Com. v. Simplicity Pattern Co. 360 U.S. 55 (1959)

"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute."

[Federal Trade Com. v. Simplicity Pattern Co., 360 U.S. 55, p. 55, 475042/56451 (1959)]

8.8.22 Bell v. United States, 349 U.S. 81 (1955)

"It is not to be denied that argumentative skill, as was shown at the Bar, could persuasively and not unreasonably reach either of the conflicting constructions. About only one aspect of the problem can one be dogmatic. ***When Congress has the will it has no difficulty in expressing it - when it has the will, that is, of defining what it desires to make the unit of prosecution and, more particularly, to make each stick in a faggot a single criminal unit. When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity.*** *And this not out of any sentimental consideration, or for want of sympathy with the purpose of Congress in proscribing evil or antisocial conduct. It may fairly be said to be a presupposition of our law to resolve doubts in the enforcement of a penal code against the imposition of a harsher punishment. This in no wise implies that language used in criminal statutes should not be read with the saving grace of common sense with which other enactments, not cast in technical language, are to be read. Nor does it assume that offenders against the law carefully read the penal [349 U.S. 81, 84] code before they embark on crime. It merely means that* ***if Congress does not fix the punishment for a federal offense clearly and without ambiguity, doubt will be resolved against turning a single transaction into multiple offenses, when we have no more to go on than the present case furnishes.****"*
[Bell v. United States, 349 U.S. 81 (1955)]

8.8.23 Lawson v. Suwannee Fruit & Steamship Co., 336 U.S. 198, 201 (1949)

". . .Statutory definitions control the meaning of statutory words, . ."
[Lawson v. Suwannee Fruit & Steamship Co., 336 U.S. 198, 201 (1949)]

8.8.24 United States v. Borden Co, 308 U.S. 188, 60 S.Ct. 182, 84 L.Ed. 181 (1939)

"It is a cardinal principle of construction that repeals by implication are not favored. When there are two acts upon the same subject, the rule is to give effect to both if possible. United States v. Tynen, 11 Wall. 88, 92, 20 L.Ed. 153; Henderson's Tobacco, 11 Wall. 652, 657, 20 L.Ed. 235; General Motors Acceptance Corporation v. United States, 286 U.S. 49, 61, 62, 52 S.Ct. 468, 472, 76 L.Ed. 971, 82 A.L.R. 600. The intention of the legislature to repeal 'must be clear and manifest'. Red Rock v. Henry, 106 U.S. 596, 601, 602, 1 S.Ct. 434, 439, 27 L.Ed. 251. It is not sufficient as was said by Mr. Justice Story in Wood v. United States, 16 Pet. 342, 362, 363, 10 L.Ed. 987, 'to establish that subsequent laws cover some or even all of the cases provided for by (the prior act); for they may be merely affirmative, or cumulative, or auxiliary'. There must be 'a positive repugnancy between the provisions of the new law and those of the old; and even then the old law is repealed by implication only, pro tanto, to the extent of the repugnancy'. See, also, Posadas v. National City Bank, 296 U.S. 497, 504, 56 S.Ct. 349, 352, 80 L.Ed. 351."
[United States v. Borden Co, 308 U.S. 188, 198-199, 60 S.Ct. 182, 84 L.Ed. 181 (1939)]

8.8.25 National Labor Relations Board v. Jones Laughlin Steel Corporation, 301 U.S. 1, 57 S.Ct. 615, 81 L.Ed. 893 (1937)

"But we are not at liberty to deny effect to specific provisions, which Congress has constitutional power to enact, by superimposing upon them inferences from general legislative declarations of an ambiguous character, even if found in the same statute. The cardinal principle of statutory construction is to save and not to destroy. We have repeatedly held that as between two possible interpretations of a statute, by one of which it would be unconstitutional and by the other valid, our plain duty is to adopt that which will save the act. Even to avoid a serious doubt the rule is the same. Federal Trade Commission v. American Tobacco Co., 264 U.S. 298, 307, 44 S.Ct. 336, 337, 68 L.Ed. 696, 32 A.L.R. 786; Panama R.R. Co. v. Johnson, 264 U.S. 375, 390, 44 S.Ct. 391, 395, 68 L.Ed. 748; Missouri Pacific R.R. Co., v. Boone, 270 U.S. 466, 472, 46 S.Ct. 341, 343, 70 L.Ed. 688; Blodgett v. Holden, 275 U.S. 142, 148, 276 U.S. 594, 48 S.Ct. 105, 107, 72 L.Ed. 206; Richmond Screw Anchor Co. v. United States, 275 U.S. 331, 346, 48 S.Ct. 194, 198, 72 L.Ed. 303."
[National Labor Relations Board v. Jones Laughlin Steel Corporation, 301 U.S. 1, 30, 57 S.Ct. 615, 81 L.Ed. 893 (1937)]

8.8.26 Rector, Etc. Of Holy Trinity Church v. United States, 153 U.S. 457 (1892)

*"**All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence.** It will always be presumed that the legislature intended exceptions to its language which would avoid results of this character. **The reason of the law in such cases should prevail over its letter.**"*
[Rector, Etc., Of Holy Trinity Church v. United States, 143 U.S. 457; 12 S.Ct. 511 (1892)]

8.8.27 Inhabitants of the Township of Montclair, County of Essex v. Ramsdell, 107 U.S. 147, 2 S.Ct. 391, 27 L.Ed. 431 (1883)

"It is the duty of the court to give effect, if possible, to every clause and word of a statute, avoiding, if it may be, any construction which implies that the legislature was ignorant of the meaning of the language it employed."
[Inhabitants of the Township of Montclair, County of Essex v. Ramsdell, 107 U.S. 147, 152, 2 S.Ct. 391, 27 L.Ed. 431 (1883)]

8.8.28 Washington Market Co. v. Hoffman, 101 U.S. 112 (1879)

"Words used in the statute are to be given their proper signification and effect."
[Washington Market Co. v. Hoffman, 101 U. S. 112, 115, 25 L. Ed. 782, 783 (1879)]

8.8.29 United States v. Tynen, 78 U.S. 88, 11 Wall. 88, 20 L.Ed. 153 (1870)

". . .it is a familiar doctrine that repeals by implication are not favored. When there are two acts on the same subject the rule is to give effect to both if possible. But if the two are repugnant in any of their provisions, the latter act, without any repealing clause, operates to the extent of the repugnancy as a repeal of the first; and even where two acts are not in express terms repugnant, yet if the latter act covers the whole subject of the first, and embraces new provisions, plainly showing that it was intended as a substitute for the first act, it will operate as a repeal of that act.[24]*"*
[United States v. Tynen, 78 U.S. 88, 92, 11 Wall. 88, 20 L.Ed. 153 (1870)]

8.9 Summary of the Rules of Statutory Construction and Interpretation

Based on the foregoing quotes from the U.S. Supreme Court on the rules of statutory construction, the following rules apply, which are also repeated in section 3.8 of our free *Great IRS Hoax* book:

1. The law should be given it's plain meaning wherever possible.
2. Statutes must be interpreted so as to be entirely harmonious with all law as a whole. The pursuit of this harmony is often the best method of determining the meaning of specific words or provisions which might otherwise appear ambiguous:

It is, of course, true that statutory construction "is a holistic endeavor" and that the meaning of a provision is "clarified by the remainder of the statutory scheme ... [when] only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law." United Sav. Assn. of Tex. v. Timbers of Inwood Forest Associates, Ltd., *484 U.S. 365, 371, 108 S.Ct. 626, 98 L.Ed.2d. 740 (1988).*
[U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 121 S.Ct. 1433 (2001)]

3. Every word within a statute is there for a purpose and should be given its due significance.

"This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.' "
[Russello v. United States, 464 U.S. 16, 23, 78 L.Ed.2d. 17, 104 S.Ct. 296 (1983)]

4. All laws are to be interpreted consistent with the legislative intent for which they were originally enacted, as revealed in the Congressional Record prior to the passage. The passage of no amount of time can change the original legislative intent of a law.

"Courts should construe laws in Harmony with the legislative intent and seek to carry out legislative purpose. With respect to the tax provisions under consideration, there is no uncertainty as to the legislative purpose to tax post-1913 corporate earnings. We must not give effect to any contrivance which would defeat a tax Congress plainly intended to impose."
[Foster v. U.S., 303 U.S. 118 (1938)]

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted."
[Mattox v. U.S., 156 U.S. 237 (1938)]

[24] Davies v. Fairbairn, 3 Howard, 636; Bartlet v. King, 12 Massachusetts, 537; Commonwealth v. Cooley, 10 Pickering, 36; Pierpont v. Crouch, 10 California, 315; Norris v. Crocker, 13 Howard, 429; Sedgwick on Statute Law, 126.

5. Presumption may not be used in determining the meaning of a statute. Doing otherwise is a violation of due process and a religious sin under Numbers 15:30 (Bible). A person reading a statute cannot be required by statute or by "judge made law" to read anything into a Title of the U.S. Code that is not expressly spelled out. See:

   Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
   http://sedm.org/Forms/FormIndex.htm

6. The proper audience to turn to in order to deduce the meaning of a statute are the persons who are the subject of the law, and not a judge. Laws are supposed to be understandable by the common man because the common man is the proper subject of most laws. Judges are NOT common men.

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

> *". . .whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence in federal courts is that laymen are better than specialists to perform this task."*
> *[United States ex rel. Toth v. Quarles, 350 U.S. 11, 18 (1955)]*

7. If a word is not statutorily defined, then the courts are bound to start with the common law meaning of the term.

> *"Absent contrary direction from Congress, we begin our interpretation of statutory language with the general presumption that a statutory term has its common law meaning. See Taylor v. United States, 495 U.S. 575, 592 (1990); Morissette v. United States, 342 U.S. 246, 263 (1952)."*
> *[Scheidler v. National Organization for Women, 537 U.S. 393 (2003)]*

8. The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is *not* implied or assumed by the reader. A "definition" by its terms excludes non-essential elements by mentioning only those things to which it shall apply.

> *"**Define.** To explain or **state the exact meaning** of words and phrases; to state explicitly; **to limit;** to determine essential qualities of; to determine **the precise signification** of; to settle; to establish or prescribe authoritatively; to make clear. (Cite omitted)"*

> *"To "define" with respect to space, means to set or establish its boundaries authoritatively; to **mark the limits** of; to determine with precision or exhibit clearly the boundaries of; to **determine the end or limit;** to fix or **establish the limits.** It is the equivalent to declare, fix or establish.*
> *[Black's Law Dictionary, Sixth Edition, p. 422]*

> *"**Definition.** A description of a thing by its properties; an explanation of the meaning of a word or term. The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, **including all essential elements and excluding all nonessential,** as **to distinguish it from all other things** and classes."*
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

9. When a term is defined within a statute, that definition is provided usually to *supersede* and not *enlarge* other definitions of the word found elsewhere, such as in other Titles or Codes.

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

10. It is a violation of due process of law to employ a "statutory presumption", whereby the reader is compelled to guess about precisely what is included in the definition of a word, or whereby all that is included within the meaning of a term defined is not described SOMEWHERE within the body of law or Title in question.

> *The Schlesinger Case has since been applied many times by the lower federal courts, by the Board of Tax Appeals, and by state courts;*[25] *and* ***none of them seem to have been **361 at any loss to understand the basis of the decision, namely, that a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden to controvert is so arbitrary and unreasonable that it cannot stand under the Fourteenth Amendment.***
>
> ***[. . .]***
>
> ***A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof,*** *Mobile, J. & K. C. R. Co. v. Turnipseed, 219 U.S. 35, 43 , 31 S.Ct. 136, 32 L. R. A. (N. S.) 226, Ann.Cas. 1912A, 463; and* ***it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a substitute for proof; in the one open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, to enact into existence a fact which here does not, and cannot be made to, exist in actuality,*** *and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for that case dealt with a conclusive presumption, and the court held it invalid without regard to the question of its technical characterization.* ***This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.*** *For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*
>
> *'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional* ***prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'***
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

The implications of this rule are that the following definition cannot imply the common definition of a term IN ADDITION TO the statutory definition, or else it is compelling a presumption, engaging in statutory presumptions, and violating due process of law:

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

11. Expressio Unius est Exclusio Alterius Rule: The term "includes" is a term of *limitation* and not enlargement in most cases. Where it is used, it prescribes *all* of the things or classes of things to which the statute pertains. All other possible objects of the statute are thereby *excluded*, by implication.

> *"**expressio unius, exclusio alterius**"—if one or more items is specifically listed, omitted items are purposely excluded. Becker v. United States, 451 U.S. 1306 (1981)*
>
> *"**Expressio unius est exclusio alterius**. A maxim of statutory interpretation meaning that* ***the expression of one thing is the exclusion of another.*** *Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another.* ***When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred.*** *Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded."*
> *[Black's Law Dictionary, Sixth Edition, p. 581]*

12. When the term "includes" is used as implying enlargement or "in addition to", it only fulfills that sense when the definitions to which it pertains are scattered across multiple definitions or statutes within an overall body of law. In each instance, such "scattered definitions" must be considered AS A WHOLE to describe all things which are included. The U.S. Supreme Court confirmed this when it said:

[25] See, for example, Hall v. White (D. C.) 48 F.(2d) 1060; Donnan v. Heiner (D. C.) 48 F.(2d) 1058 (the present case); Guinzburg v. Anderson (D. C.) F. (2d) 592; American Security & Trust Co. et al., Executors, 24 B. T. A. 334; State Tax Commission v. Robinson's Executor, 234 Ky. 415, 28 S.W.(2d) 491 (involving a three-year period).

> *"**That is to say, the statute, read "as a whole," post at 998 [530 U.S. 943] (THOMAS, J., dissenting), leads the reader to a definition.** That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary."*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

An example of the "enlargement" or "in addition to" context of the use of the word "includes" might be as follows, where the numbers on the left are a fictitious statute number :

12.1. "110 The term "state" includes a territory or possession of the United States."

12.2. "121 In addition to the definition found in section 110 earlier, the term "state" includes a state of the Union."

13. Statutes that do not specifically identify ALL of the things or classes of things or persons to whom they apply are considered "void for vagueness" because they fail to give "reasonable notice" to the reader of all the behaviors that are prohibited and compel readers to make presumptions or to guess at their meaning.

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

> *See al Papachristou v. City of Jacksonville, 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S. Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926).*
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*

14. Judges may not extend the meaning of words used within a statute, but must resort ONLY to the meaning clearly indicated in the statute itself. That means they may not imply or infer the common definition of a term IN ADDITION to the statutory definition, but must rely ONLY on the things clearly included in the statute itself and nothing else.

> *"It is axiomatic that the statutory definition of the term excludes unstated meanings of that term. Colautti v. Franklin, 439 U.S. 379, 392, and n. 10 (1979). Congress' use of the term "propaganda" in this statute, as indeed in other legislation, has no pejorative connotation.{19} **As judges, it is our duty to [481 U.S. 485] construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it.**"*
> *[Meese v. Keene, 481 U.S. 465, 484 (1987)]*

15. Citizens [not "taxpayers", but "citizens"] are presumed to be exempt from taxation unless a clear intent to the contrary is clearly manifested in a positive law taxing statute.

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

For additional authorities similar to those above, see: *Spreckles Sugar Refining Co. v. McClain, 192 U.S. 397, 416 (1904)*; *Smietanka v. First Trust & Savings Bank*, 257 U.S. 602, 606 (1922); *Lucas v. Alexander*, 279 U.S. 573, 577 (1929); *Crooks v. Harrelson*, 282 U.S. 55 (1930); *Burnet v. Niagra Falls Brewing Co.*, 282 U.S. 648, 654 (1931); *Miller v. Standard Nut Margarine Co.*, 284 U.S. 498, 508 (1932); *Gregory v. Helvering*, 293 U.S. 465, 469 (1935); *Hassett v. Welch*, 303 U.S. 303, 314 (1938); *U.S. v. Batchelder*, 442 U.S. 114, 123 (1978); *Security Bank of Minnesota v. CIA*, 994 F.2d. 432, 436 (CA8 1993).

16. Ejusdem Generis Rule: Where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned

> *"[w]here general words [such as the provisions of 26 U.S.C. §7701(c)] follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words."*
> *[Circuit City Stores v. Adams, 532 U.S. 105, 114-115 (2001)]*

> *"Under the principle of ejusdem generis, when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration."*

[Norfolk & Western R. Co. v. Train Dispatchers, 499 U.S. 117 (1991)]

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*"**Ejusdem generis**. Of the same kind, class, or nature. In the construction of laws, wills, and other instruments, the "ejusdem generis rule" is, that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. U.S. v. LaBrecque, D.C. N.J., 419 F.Supp. 430, 432. The rule, however, does not necessarily require that the general provision be limited in its scope to the identical things specifically named. Nor does it apply when the context manifests a contrary intention.*

Under "ejusdem generis" cannon of statutory construction, where general words follow the enumeration of particular classes of things, the general words will be construed as applying only to things of the same general class as those enumerated. Campbell v. Board of Dental Examiners, 53 Cal.App.3d 283, 125 Cal.Rptr. 694, 696."
[Black's Law Dictionary, Sixth Edition, p. 517]

17. In all criminal cases, the "Rule of Lenity" requires that where the interpretation of a criminal statute is ambiguous, the ambiguity should be resolved in favor of the defendant and against the government. An ambiguous statute fails to give "reasonable notice" to the reader what conduct is prohibited, and therefore renders the statute unenforceable. The Rule of Lenity may only be applied when there is ambiguity in the meaning of a statute:

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

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*"It is not to be denied that argumentative skill, as was shown at the Bar, could persuasively and not unreasonably reach either of the conflicting constructions. About only one aspect of the problem can one be dogmatic. **When Congress has the will it has no difficulty in expressing it - when it has the will, that is, of defining what it desires to make the unit of prosecution and, more particularly, to make each stick in a faggot a single criminal unit. When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity.** And this not out of any sentimental consideration, or for want of sympathy with the purpose of Congress in proscribing evil or antisocial conduct. **It may fairly be said to be a presupposition of our law to resolve doubts in the enforcement of a penal code against the imposition of a harsher punishment.** This in no wise implies that language used in criminal statutes should not be read with the saving grace of common sense with which other enactments, not cast in technical language, are to be read. Nor does it assume that offenders against the law carefully read the penal [349 U.S. 81, 84] code before they embark on crime. It merely means that **if Congress does not fix the punishment for a federal offense clearly and without ambiguity, doubt will be resolved against turning a single transaction into multiple offenses, when we have no more to go on than the present case furnishes.**"*
[Bell v. United States, 349 U.S. 81 (1955)]

18. When Congress intends, by one of its Acts, to supersede the police powers of a state of the Union, it must do so very clearly.

*"If Congress is authorized to act in a field, it should manifest its intention clearly. **It will not be presumed that a federal statute was intended to supersede the exercise of the power of the state unless there is a clear manifestation of intention to do so. The exercise of federal supremacy is not lightly to be presumed.**"*
*[*Schwartz v. Texas, *344 U.S. 199, 202-203 (1952)]*

19. There are no exceptions to the above rules. However, there are cases where the "common definition" or "ordinary definition" of a term *can* and *should* be applied, but ONLY where a statutory definition is NOT provided that might supersede the ordinary definition. See:
19.1. Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966);

"[T]he words of statutes--including revenue acts--should be interpreted where possible in their ordinary, everyday senses."
[Crane v. Commissioner of Internal Revenue, 331 U.S. 1, 6 (1947), Malat v. Riddell, 383 U.S. 569, 571 (1966)]

19.2. Commissioner v. Soliman, 506 U.S. 168, 174 (1993);

"In interpreting the meaning of the words in a revenue Act, we look to the 'ordinary, everyday senses' of the words."
[Commissioner v. Soliman, 506 U.S. 168, 174 (1993)]

19.3. Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S. 552, 560 (1932)

"Common understanding and experience are the touchstones for the interpretation of the revenue laws."
[Helvering v. Horst, 311 U.S. 112, 118 (1940); Old Colony R. Co. v. Commissioner of Internal Revenue, 248 U.S. 552, 560 (1932)]

We must ALWAYS remember that the fundamental purpose of law is "the definition and ***limitation*** of power":

> *"When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts.* ***And the law is the definition and limitation of power.****"*

From Marbury v. Madison to the present day, no utterance of this Court has intimated a doubt that in its operation on the people, by whom and for whom it was established, the national government is a government of enumerated powers, the exercise of which is restricted to the use of means appropriate and plainly adapted to constitutional ends, and which are "not prohibited, but consist with the letter and spirit of the Constitution."

The powers delegated by the people to their agents are not enlarged by the expansion of the domain within which they are exercised. When the restriction on the exercise of a particular power by a particular agent is ascertained, that is an end of the question.

To hold otherwise is to overthrow the basis of our constitutional law, and moreover, in effect, to reassert the proposition that the states, and not the people, created the government.

It is again to antagonize Chief Justice Marshall, when he said:

> *The government of the Union, then (whatever may be the influence of this fact on the case), is emphatically and truly a government of the people. In form and in substance, it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit. This government is acknowledged by all to be one of enumerated powers.*

[Downes v. Bidwell, 182 U.S. 244 (1901)]

Law cannot serve the purpose of defining and limiting power if the definitions upon which it is based are vague, arbitrary, changing, or subject to the whim of either a judge or a jury. The only way to limit power is to define ALL things to which a law applies and to exclude all others by implication in order to ensure consistent application of the law to all of its intended subjects. It is an abuse of the justice system to:

1. Withdraw the law from discussion in the courtroom so as to compel jurists to make presumptions by applying the common definition of the term rather than the legal definition. All law is a contract of one form or another, because all law requires "the consent of the governed" and cannot be approved without consent, according to the Declaration of Independence. "Public law" is a contract among the constituents "as a collective" to conduct their affairs according to fixed standards. "Private law", which includes the Internal Revenue Code and the Social Security Act, is a contract or agreement ONLY among those who have manifested written consent in some form, to abide by the contract, which in fact is a "franchise agreement" among those collecting privileged government benefits. For a judge to prevent discussing law in the courtroom is to interfere with the right to contract and the enforcement of contracts in courts of justice. The federal courts ***do not*** possess such powers!:

> *"****Independent of these views, there are many considerations which lead to the conclusion that the power to impair contracts [either the Constitution or the Holy Bible], by direct action to that end, does not exist with the general [federal] government. In the first place, one of the objects of the Constitution, expressed in its preamble, was the establishment of justice, and what that meant in its relations to contracts is not left, as was justly said by the late Chief Justice, in Hepburn v. Griswold, to inference or conjecture.*** *As he observes, at the time the Constitution was undergoing discussion in the convention, the Congress of the Confederation was*

engaged in framing the ordinance for the government of the Northwestern Territory, in which certain articles of compact were established between the people of the original States and the people of the Territory, for the purpose, as expressed in the instrument, of extending the fundamental principles of civil and religious liberty, upon which the States, their laws and constitutions, were erected. ***By that ordinance it was declared, that, in the just preservation of rights and property, 'no law ought ever to be made, or have force in the said Territory, that shall, in any manner, interfere with or affect private contracts or engagements bona fide and without fraud previously formed.'*** *The same provision, adds the Chief Justice, found more condensed expression in the prohibition upon the States [in Article 1, Section 10 of the Constitution] against impairing the obligation of contracts, which has ever been recognized as an efficient safeguard against injustice; and though the prohibition is not applied in terms to the government of the United States, he expressed the opinion, speaking for himself and the majority of the court at the time,* ***that it was clear 'that those who framed and those who adopted the Constitution intended that the spirit of this prohibition should pervade the entire body of legislation, and that the justice which the Constitution was ordained to establish was not thought by them to be compatible with legislation [or judicial precedent] of an opposite tendency.'*** *8 Wall. 623. [99 U.S. 700, 765] Similar views are found expressed in the opinions of other judges of this court."*
[Sinking Fund Cases, 99 U.S. 700 (1878)]

2. Recuse jurists who have read and wish to apply the definitions in the law to the case at hand. See the following, which shows willful intention on the part of judge in San Diego to do exactly this, by preventing the courthouse law library from being used by jurists while serving as jurists. This is a willful attempt to interfere with the right to contract of all those subject to said contract:
http://famguardian.org/Disks/TaxDVD/Evidence/JudicialCorruption/GenOrder228C-Library.pdf
3. Allow either a judge or a jury to become "public policy boards" and "legislatures" in applying the provisions of a statute to a group of persons for whom it was never intended. He is in effect "politicizing the court" and turning the jury essentially into an angry lynch mob not unlike what they did to Jesus after Pilate (the Judge, in that instance) washed his hands of Jesus by saying he could find no sin in this man (Matt. 27:24). Recall that Jesus himself was ALSO accused of being a tax protester: Luke 23:2. This is willful abuse of the evils of "democracy" to destroy Constitutionally protected rights. It is TREASON punishable by DEATH in 18 U.S.C. §2381. It is also precisely this abuse which the founders condemned in the Federalist Papers:

"If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views by regular vote. It may clog the administration, it may convulse the society; but it will be unable to execute and mask its violence under the forms of the Constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. ***To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.***

By what means is this object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority at the same time must be prevented, or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. ***Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.***

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. *Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union.*

> *The two great points of difference between a democracy and a republic are: first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and greater sphere of country, over which the latter may be extended.*
> *[James Madison, Federalist Paper #10]*

If you want to find out whether the judge is up to no good and is abusing the above techniques, insist that the jurists be given a copy of the definitions in the law and be given a multiple choice test to define what is "included". If the answers are not universal, unanimous, or consistent, then the law is "void for vagueness" and unenforceable and the case must be dismissed. If the judge refuses such a poll, he is trying to conceal the fact that he is abusing legal process to keep the truth of this matter out of the court record.

Instead, all persons accused of any "crime", including that of being "taxpayers" or of being "liable" for a tax, MUST be presumed to be innocent until proven guilty with a statute that clearly identifies him as being part of a group subject to tax:

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

9 Analysis of meaning of "includes" and "including"

9.1 Application of "innocent until proven guilty" maxim of American Law

A well-known and universal rule of American Jurisprudence throughout the states and federal government that nearly everyone is aware of is the following, elucidated by the Supreme Court:

> *The presumption of innocence plays a unique role in criminal proceedings. As Chief Justice Burger explained in his opinion for the Court in Estelle v. Williams, 425 U.S. 501 (1976): [507 U.S. 284]:*
>
> > *The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice. Long ago this Court stated:*
> >
> > *The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law. Coffin v. United States, 156 U.S. 432, 453 (1895).*
>
> *To implement the presumption, courts must be alert to factors that may undermine the fairness of the factfinding process. In the administration of criminal justice, courts must carefully guard against dilution of the principle that guilt is to be established by probative evidence and beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364 (1970). [425 U.S. 501, 504]*
> *[Delo v. Lashely, 507 U.S. 272 (1993)]*

The implication of this rule to the interpretation of law is that the law must state clearly and unambiguously what conduct is prohibited and what specific conduct is required.

> *"The purpose of law cannot be to compel confusion. The reason for this is that the purpose of law is to protect by defining for the person of average intelligence exactly what behavior is required in order to sustain an orderly society free from crime, injury, and duress."*
> *[C. Hansen]*

The Supreme Court defined why laws must be written specifically for the audience of ordinary Americans when it stated:

> *"whether right or wrong, the premise underlying the constitutional method for determining guilt or innocence in federal courts is that laymen are better than specialists [such as judges and lawyers] to perform this task."*
> *[United States ex rel. Toth v. Quarles, 350 U.S. 11, 18 (1955)]*

The innocent until proven guilty rule is a "rule of presumption". It requires that a jury must presume the Defendant is not guilty until evidence is produced which clearly and unambiguously demonstrates otherwise. Any presumption to the contrary will prejudice the rights of the Defendant and is a violation of due process:

> *(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974)*

414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]
[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]

9.2 Role of Law and Presumption in Proving Guilt

Among the types of evidence that may be introduced in a court setting to establish guilt include quoting the enacted law itself. Evidence based upon "law" only becomes admissible when the law cited is "positive law".

> ***"Positive law**. Law actually and specifically enacted or adopted by proper authority for the government of an organized jural society. See also Legislation."*
> *[Black's Law Dictionary, Sixth Edition, p. 1162]*

Evidence that is NOT positive law, becomes "prima facie" evidence, which means that it is "presumed" to be evidence unless challenged or rebutted:

> *TITLE 1 > CHAPTER 3 > § 204*
> *§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements*
>
> *In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—*
>
> *(a) **United States Code.—** The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: **Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.***

The above statute, which is "positive law", establishes what is called a "statutory presumption" that courts are obligated to observe. The statute above creates the notion of "prima facie" evidence. "Prima facie evidence" is defined below:

> *"**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]*

Black's Law Dictionary defines the term "presumption" as follows:

> *"**presumption**. An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. Van Wart v. Cook, Okl.App., 557 P.2d. 1161, 1163. A legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence. Port Terminal & Warehousing Co. v. John S. James Co., D.C.Ga., 92 F.R.D. 100, 106.*
>
> *A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.*
>
> *In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. Federal Evidence Rule 301.*

See also Disputable presumption; inference; Juris et de jure; Presumptive evidence; Prima facie; Raise a presumption."
[Black's Law Dictionary, Sixth Edition, p. 1185]

A "statutory presumption" is one that occurs in a court of law because it is mandated by a positive law statute. The U.S. Supreme Court has said that "statutory presumptions" which prejudice constitutional rights are forbidden:

> ***"A rebuttable presumption clearly is a rule of evidence which has the effect of shifting the burden of proof,*** *Mobile, J. & K. C. R. Co. v. Turnipseed, 219 U.S. 35, 43 , 31 S.Ct. 136, 32 L. R. A. (N. S.) 226, Ann.Cas. 1912A, 463; and* ***it is hard to see how a statutory rebuttable presumptions is turned from a rule of evidence into a rule of substantive law as the result of a later statute making it conclusive. In both cases it is a substitute for proof; in the one open to challenge and disproof, and in the other conclusive. However, whether the latter presumption be treated as a rule of evidence or of substantive law, it constitutes an attempt, by legislative fiat, to enact into existence a fact which here does not, and cannot be made to, exist in actuality,*** *and the result is the same, unless we are ready to overrule the Schlesinger Case, as we are not; for that case dealt with a conclusive presumption, and the court held it invalid without regard to the question of its technical characterization.* ***This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.*** *For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*
>
> > ***'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'***
>
> *"If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law."*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

The Internal Revenue Code contains several statutory presumptions. Below is an example:

> *TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter E > § 7491*
> *§ 7491. Burden of proof*
>
> *(a) Burden shifts where taxpayer produces credible evidence*
>
> *(1) General rule*
>
> *If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.*
>
> *(2) Limitations*
>
> *Paragraph (1) shall apply with respect to an issue only if—*
>
> *(A) the taxpayer has complied with the requirements under this title to substantiate any item;*
>
> *(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and*
>
> *(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430 (c)(4)(A)(ii).*
>
> *Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645 (b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645 (b)(2)).*
>
> *(3) Coordination*
>
> *Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.*

9.3 How the U.S. Government Acquires Extra-Territorial Jurisdiction to Reach Into the States and Your Pocket

A number of very important implications result from the analysis in the preceding section in court settings where a section of the U.S. Code is being cited as "prima facie" evidence or in which "statutory presumption" is involved:

1. Based on the Rutter Group cite above and the Supreme Court in *Vlandis v. Kline*, 412 U.S. 441 (1973), presumption that prejudices any constitutionally protected right is unconstitutional and may not be used in any court of law.
2. A "statutory presumption", such as that found in 1 U.S.C. §204, relating to admission into evidence of anything that is not positive law, may only be used against a party who is ***not*** protected by the Bill of Rights.
3. Those who reside inside the federal zone and who therefore are not parties to the Constitution, may not therefore exclude "prima facie" evidence or statutes that are not "positive law" from evidence. Such a person has no Constitutional rights that can be prejudiced. Therefore, he is not entitled to "due process of law".
4. A person who is protected by the Constitution and the Bill of Rights should have the right to exclude "prima facie" evidence in his trial because it prejudices his Constitutional Rights.
5. A court which allows any statute from the Internal Revenue Code, Title 26, into evidence in any federal court in a trial involving a person who maintains a domicile in an area covered by the Constitution is:
   5.1. Engaging in kidnapping, by moving the domicile of the party to an area that has no rights, in violation of 18 U.S.C. §1201.
   5.2. Engaging in a "conspiracy against rights" in violation of 18 U.S.C. §241.

Based on the above, it is VERY important to know which codes within the U.S. Code are positive law and which are not. Those that are not "positive law" may not be cited in a trial involving a person domiciled in a state of the Union and not on federal property, because such a person is covered by the Bill of Rights. The U.S. Code provides a list of Titles of the U.S. Code that are not "positive law" within the legislative notes section of 1 U.S.C. §204. Among the titles of the U.S. Code that are NOT "positive law" include:

1. Title 26: Internal Revenue Code.
2. Title 42: Social Security
3. Title 50: The Military Selective Service Act (military draft)

Yes, folks, that's right: Americans domiciled in states of the Union may ***not*** have any sections of the above titles of the U.S. code cited in any trial involving them in a federal court. They may also not have any ruling of a federal court below the Supreme Court cited as authority against them PROVIDED, HOWEVER that:

1. They provide proof of their domicile within a state of the Union. See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
2. They file using Diversity of Citizenship pursuant to Article III, Section 2 of the Constitution. Note that they may NOT file diversity under 28 U.S.C. §1332 because the definition of "State" in 28 U.S.C. §1332(d) does not include states of the Union.
3. They do not implicate themselves as "taxpayers" or "U.S. persons" by citing anything from the Internal Revenue code in their own pleading, which would be an indirect admission that they are subject to it. See: http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm
4. They do not fill out and sign any government forms that creates any employment or agency between them and the federal government, such as the Forms W-4, 1040, of SS-5.

The most prevalent occasion where the above requirements are violated with most Americans is applying for the Social Security program using the SSA Form SS-5. Completing, signing, and submitting that form creates an agency and employment with the federal government. The submitter becomes a Trustee and a federal "employee" under federal law, and therefore accepts federal jurisdiction from that point forward. We have written an exhaustive free pamphlet that analyzes all the reasons why this is the case, which may be found at:

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

The above pamphlet also serves the double capacity of an electronically fillable form you can send in to eliminate this one important source of federal jurisdiction and restore your sovereignty so that the Internal Revenue Code may not be cited as authority against you in a court of law.

The reason why signing up for Social Security creates a nexus for federal jurisdiction and a means to cite it against the average American in the states is that:

1. Signing up for Social Security makes one into a "Trustee", agent, and fiduciary of the United States government under 26 U.S.C. §6903. The United States government is a foreign corporation with respect to a state of the Union, but it becomes a "domestic" corporation when you are acting as an "employee" and agent.

> *"The United States Government is a foreign corporation with respect to a state." [**N.Y. v. re Merriam** 36 N.E. 505; 141 N.Y. 479; affirmed 16 S.Ct. 1073; 41 L. Ed. 287] [underlines added]"*
> *[19 Corpus Juris Secundum (C.J.S.), Corporations §884]*

2. The United States Government is defined as a "federal corporation" in 28 U.S.C. §3002(15)(A):

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

3. The Trust you are acting as a Trustee for is an "employee" of the United States government within the meaning of the Internal Revenue Code under 26 CFR §31.3401(c)-1.
4. You, when acting as a Trustee, are an "officer or employee" of a federal corporation called the "United States".
5. The legal "domicile" of the Trust you are acting on behalf of is the "District of Columbia". This is where the "res" or "corpus" of the Social Security Trust has its only legal existence as a "person". See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
6. The Social Security Number is the "Trustee License Number". Whenever you write your name anywhere on a piece of paper, and especially in conjunction with your all caps name, such as "JOHN SMITH", you are indicating that you are acting in a Trustee capacity. The only way to remove such a presumption is to black out the number or not put it on the form, and then to correct whoever sent you the form or notice to clarify that you are not acting as a Trustee or government employee, but instead are acting as a natural person. See: http://sedm.org/ProductInfo/RespLtrs/AboutSSNs/AboutSSNs.htm
7. As an "officer or employee of a corporation", you are the proper subject of the penalty and criminal provisions of the Internal Revenue Code under:
   7.1. 26 U.S.C. §6671(b)
   7.2. 26 U.S.C. §7343
8. The Internal Revenue Code becomes enforceable against you without the need for implementing regulations. The following statutes say that implementing regulations published in the Federal Register are not required in the case of federal employees or contractors:
   8.1. 5 U.S.C. §553(a)(2)
   8.2. 44 U.S.C. §1505(a)(1)
9. As a Trustee over the Social Security Trust, you are a "public officer" engaged in a "trade or business" as defined in 26 U.S.C. §7701(a)(26). Consequently, the earnings of the federal corporation you preside over as Trustee are taxable under the Internal Revenue Code. You are exercising the functions of a "public office" because you are exercising fiduciary duty over payments paid to the Federal Government. You are in business with Uncle Sam and essentially become a "Kelly Girl". Income taxes are really just the "profits" of the Social Security trust created when you signed up for the program, which are "kicked back" to the mother corporation called the "United States".
10. All items that you take deductions on under 26 U.S.C. §162, earned income credit under 26 U.S.C. §32, or a graduated rate of tax under 26 U.S.C. §1 become "effectively connected with a trade or business", which is a code word for saying that they are public property, because a "trade or business" is a "public office". This "trade or business" then becomes a means of earning you "revenue" or "profit" as a private individual, because it serves to reduce your tax liability as a Trustee filing 1040 returns for the Social Security Trust. What the government doesn't tell you, however, is that you can't reduce a liability you wouldn't have if had just been smart enough not to sign up for Social Security to begin with! See the following article for more details on "The trade or business scam" for further details:

http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm

11. Below is what the Supreme Court said about all property you donated for "public use" by the Trust in acquiring reduced tax liability:

> *"Surely the matters in which the public has the most interest are the supplies of food and clothing; yet can it be that by reason of this interest the state may fix the price at which the butcher must sell his meat, or the vendor of boots and shoes his goods? 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 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)]*

Therefore, whatever you take deductions on comes under the jurisdiction of the Internal Revenue Code, which is the vehicle by which the "public" controls the use of your formerly private property. Every benefit has a string attached, and in this case, the string is that you as Trustee, and all property you donate for temporary use by the Trust then comes under the jurisdiction of the Internal Revenue Code and the Social Security Act.

12. Your Trust employer, the "United States" government, is your new boss. As your new boss, it does not need territorial jurisdiction over you. All it needs is "in rem" jurisdiction over the property you donated to the trust, which includes all your earnings. All this property, while it is donated to a public use, becomes federal property under government management. That is why the Slave Surveillance Number is assigned to all accounts: to track government property, contracts, and employees.
13. Because the property already is government property while you are using it in connection with a "trade or business", then you implicitly have already given the government permission to repossess that which always was theirs. That is why they can issue a "Notice of Levy" without any judicial process and immediately and conveniently take custody of your bank accounts, personal property, and retirement funds: Because they have the mark of the Beast, the Slave Surveillance Number on them, which means you already gave them to your new benefactor and caretaker, the United States Government.
14. The United States Government does ***not*** need territorial jurisdiction over you in order to drag you into federal court while you are acting as one of its Trustees and fiduciaries under 26 U.S.C. §6903. Any matter relating to federal contracts, whether they are Trust Contracts or federal employment contracts (with the "Trustee"), may ONLY be heard in a federal court. It is a violation of the separation of powers doctrine for a state to hear a matter which might affect the federal government. See Alden v. Maine, 527 U.S. 706 (1999). Federal Jurisdiction over Trustees is indeed "subject matter jurisdiction", but it doesn't derive primarily from the Internal Revenue Code. Instead it derives from the agency and contract you maintain as a "Trustee":

> *American Jurisprudence, 2d*
> *United States*
> *§ 42 Interest on claim [77 Am Jur 2d UNITED STATES]*
>
> *The interest to be recovered as damages for the delayed payment of a contractual obligation to the United States is not controlled by state statute or local common law. 75 In the absence of an applicable federal statute, the federal courts must determine according to their own criteria the appropriate measure of damages. 76 State law may, however, be adopted as the federal law of decision in some instances. 77*
> *[American Jurisprudence, 2d, United States, Section 42: Interest on Claim]*

15. The U.S. Supreme Court has always given wide latitude to manage its own "employees" which includes both its Social Security Trusts and the Trustees who are exercising agency over the Trust and its corpus or property. You better bow down and worship your new boss: Uncle Sam!

A few authorities supporting why the Federal Government may not cite federal statutes or case law against those who are not its employees or contractors follows:

1. Federal courts are administrative courts which only have jurisdiction within the federal zone and over maritime jurisdiction in territorial waters under the exclusive jurisdiction of the general/federal government. Federal judicial districts consist entirely of the federal territory within the exterior boundaries of the district, and do not encompass land not ceded to the federal government as required by 40 U.S.C. §255 and its successors, 40 U.S.C. §3111 and 3112.

2. Internal Revenue Manual, section 4.10.7.2.9.8 says that the IRS cannot cite rulings below the Supreme Court to apply to more than the specific person who litigated:

> *Internal Revenue Manual*
> *4.10.7.2.9.8 (05-14-1999)*
> *Importance of Court Decisions*
>
> *1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.*
>
> *3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.*

3. There is no federal common law within states of the Union, according to the Supreme Court in *Erie Railroad v. Tompkins*, 304 U.S. 64 (1938). Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens domiciled in states of the union who do not declare themselves to be "U.S. citizens" under 8 U.S.C. §1401 and who would litigate under diversity of citizenship, as described in 28 U.S.C. §1332.

> *"There is no Federal Common Law, and Congress has no power to declare substantive rules of Common Law applicable in a state. Whether they be local or general in their nature, be they commercial law or a part of the Law of Torts"*
> *[Erie Railroad v. Tompkins, 304 U.S. 64 (1938)]*
>
> ---
>
> ***"Common law**. As distinguished from statutory law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this sense, particularly the ancient unwritten law of England. In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The "common law" is all the statutory and case law background of England and the American colonies before the American revolution. People v. Rehman, 253 C.A.2d 119, 61 Cal.Rptr. 65, 85. It consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. Bishop v. U.S., D.C.Tex., 334 F.Supp. 415, 418.*
>
> *"Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State."*
>
> *"In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs.*
>
> *"For federal common law, see that title.*
>
> *"As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and sometimes also to "equitable" or to "criminal."*
> *[Black's Law Dictionary, Sixth Edition, p. 276]*

4. The Rules of Decision Act, 28 U.S.C. §1652, requires that the laws of the states of the Union are the only rules of decision in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and MAY NOT cite federal case law.
5. Federal Rule of Civil Procedure 17(b) says that the capacity to sue or be sued is determined by the law of the individual's domicile. This means that if a person is domiciled in a state and not within an enclave, then state law are the rules of decision rather than federal law. Since state income tax liability in nearly every state is dependent on a federal liability first, this makes an income tax liability impossible for those domiciled outside the federal zone.

Therefore, in the case of a private citizen who has done all the following may not have federal statutory law cited against them and is immune from the jurisdiction of federal courts:

1. Provided proof of their domicile within a state of the Union. See: http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm
2. Responded to the federal suit using Diversity of Citizenship under 28 U.S.C. §1332.
3. Not implicated themselves as "taxpayers" by citing anything from the Internal Revenue code in their own pleading, which would be an indirect admission that they are subject to it. See: http://famguardian.org/Subjects/Taxes/Articles/TaxpayerVNontaxpayer.htm
4. Not signed and submitted any government forms that create any employment or agency between them and the federal government, such as the W-4, 1040, of SS-5 forms.
5. If compelled to fill out and submit government forms, has attached the following form to prevent any presumptions or evidence of consent to franchise from being provided to the government.

   Tax Form Attachment, Form #04.201
   http://sedm.org/Forms/FormIndex.htm
6. Sent in and admitted into evidence the following:

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

Any government representative, and especially who is from the Dept. of Justice or the IRS, who cites a case below the Supreme Court or any section from the Internal Revenue Code or Title 42 of the U.S. Code in the case of a person who is a "national" but not a "citizen" under federal law, who is not a "Trustee" or federal "employee", is abusing case law for political purposes, usually with willful intent to deceive the hearer. Federal courts, incidentally, are NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of case law, but judges who are fond of increasing their retirement benefits often will acquiesce if you don't call them on it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under 28 U.S.C. §144 and 28 U.S.C. §455. Below is what the Supreme Court said about the authority of itself, and by implication all other federal courts, to involve itself in strictly political matters:

> ***"But, fortunately for our freedom from political excitements in judicial duties, this court [the U.S. Supreme Court] can never with propriety be called on officially to be the umpire in questions merely political. The adjustment of these questions belongs to the people and their political representatives, either in the State or general government. These questions relate to matters not to be settled on strict legal principles.*** *They are adjusted rather by inclination, or prejudice or compromise, often.*
>
> *[. . .]*
>
> ***Another evil, alarming and little foreseen, involved in regarding these as questions for the final arbitrament of judges would be that, in such an event, all political privileges and rights would, in a dispute among the people, depend on our decision finally. We would possess the power to decide against, as well as for, them, and, under a prejudiced or arbitrary judiciary, the public liberties and popular privileges might thus be much perverted, if not entirely prostrated.*** *But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself.* ***Our power begins after theirs [the Sovereign People] ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation [e.g. "positive law"], clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench.*** *But the other disputed points in making constitutions, depending often, as before shown, on policy, inclination, popular resolves and popular will and arising not in respect to private rights, not what is meum and tuum, but in relation to politics, they belong to politics, and they are settled by political tribunals, and are too dear to a people bred in the school of Sydney and Russel for them ever to intrust their final decision, when disputed, to a class of men who are so far removed from them as the judiciary, a class also who might decide them erroneously, as well as right, and if in the former way,* ***the consequences might not be able to be averted except by a revolution, while a wrong decision by a political forum can often be peacefully corrected by new elections or instructions in a single month; and if the people, in the distribution of powers under the constitution, should ever think of making judges supreme arbiters in political controversies when not selected by nor, frequently, amenable to them nor at liberty to follow such various considerations in their judgments***

> ***as [48 U.S. 53] belong to mere political questions, they will dethrone themselves and lose one of their own invaluable birthrights; building up in this way -- slowly, but surely -- a new sovereign power in the republic, in most respects irresponsible and unchangeable for life, and one more dangerous, in theory at least, than the worst elective oligarchy in the worst of times. Again, instead of controlling the people in political affairs, the judiciary in our system was designed rather to control individuals, on the one hand, when encroaching, or to defend them, on the other, under the Constitution and the laws, when they are encroached upon.*** *And if the judiciary at times seems to fill the important station of a check in the government, it is rather a check on the legislature, who may attempt to pass laws contrary to the Constitution, or on the executive, who may violate both the laws and Constitution, than on the people themselves in their primary capacity as makers and amenders of constitutions."*
> *[Luther v. Borden, 48 U.S. 1 (1849)]*

We know that the content of this section may appear strange at first reading, but after you have gone back and read the Resignation of Compelled Social Security Trustee document, there is simply no other logical conclusion that a person can reach based on the overwhelming evidence presented there that so clearly describes how the Social Security program operates from a legal perspective.

A number of tax honesty advocates will attempt to cite 26 U.S.C. §7701(a)(9) and (a)(10) as proof that federal jurisdiction does not extend into the states for the purposes of the Internal Revenue Code.

> *TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]*
> *Sec. 7701. - Definitions*
>
> *(a)(9) United States*
>
> *The term "United States" when used in a geographical sense includes only the States and the District of Columbia.*
>
> ---
>
> *(a)(10): State*
>
> *The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.*

Federal district and circuit courts have been known to label such arguments based on these definitions in the Internal Revenue Code as "frivolous". Their reasons for doing so have never been completely or truthfully revealed anywhere but here, to the best of our knowledge. Now that we know how the government ropes sovereign Americans into their jurisdiction based on the analysis in this section, we also know that it is indeed "frivolous" to state that federal jurisdiction does not extend into the states in the case of those who are "Trustees" or federal "employees" or federal contractors, such as those who participate in Social Security. Since we know that the legal domicile of the Trust is indeed the District of Columbia, we also know that anyone who litigates in a federal court and does not deny all of the following will essentially be presumed to be a federal "employee" and Trustee acting on behalf of the Social Security Trust:

1. The all caps name in association with him. His proper name is the lower case Christian Name. The all caps name is the name of the Social Security Trust that was created when you completed and submitted the SS-5 form to sign up for Social Security.
2. The Trustee license number called the Social Security Number associated with him. If you admit the number is yours, then you admit that you are acting as a Social Security Trustee. Only trustees can use the license number.
3. The receipt of income connected to a "trade or business" on form 1099's. All earnings identified on a 1099 are "presumed" to be "effectively connected with a trade or business", which is a "public office" in the United States government as a "Trustee" and fiduciary over federal payments.
4. The receipt of "wage" income in connection with a Form W-4. Receipt of "wages" are evidence from 26 CFR §31 .3401(a)-3(a) that you consented to withhold and participate in Social Security.
5. The existence of consent in signing the SS-5 form. The Trust contract created by this form cannot be lawful so long as it was either signed without your consent or was signed for you by your parents without your informed consent.
6. The voluntary use of the Slave Surveillance Number. Instead, all uses must be identified as compelled. Responsibility for a compelled act falls on the person instituting the compulsion, and not the actor.

9.4 Purpose of Due Process: To completely remove "presumption" from legal proceedings

All presumption represents a violation of Constitutional Due Process. The only exception to this rule is if the Defendant is not covered by the Constitution because domiciled in the federal zone or exercising agency of a legal "person" who is domiciled in the federal zone. This was thoroughly covered in the previous section.

According to the Bible, "presumption" also happens to be a Biblical sin in violation of God's law as well, which should result in the banishment of a person from his society:

> *"'But the person who does anything presumptuously, whether he is native-born or a stranger, that one brings reproach on the LORD, and he shall be cut off from among his people."*
> *[Numbers 15:30, Bible, NKJV]*

> *"Keep back Your servant also from **presumptuous** sins; Let them not have dominion over me. Then I shall be blameless, And I shall be innocent of great transgression."*
> *[Psalm 19:13, Bible, NKJV]*

> *"Now the man who acts presumptuously and will not heed the priest who stands to minister there before the LORD your God, or the judge, that man shall die. So you shall put away the evil from Israel. 13 And all the people shall hear and fear, and no longer act presumptuously."*
> *[Deut. 17:12-13, Bible, NKJV]*

We have therefore established that "presumption" is something we should try very hard to avoid, because it is a violation of both man's law AND God's law. As a matter of fact, we have a whole free book on our website that challenges the false assumption of liability to federal taxation available at:

http://famguardian.org/Publications/AssumptOfLiability/AssumptionOfLiability.htm

The chief purpose of Constitutional "due process" is therefore to completely remove bias and the presumption that produces it from every legal proceeding in a court of law. This is done by:

1. Completely removing all presumptions from the legal proceeding.
2. Preventing the application of any "statutory presumptions" that might prejudice the rights of the Defendant.
3. Insisting that every conclusion is based on physical and non-presumptive (not "prima facie") evidence.
4. To apply the same rules of evidence equally against both parties.
5. Choosing jurists who are free from bias or prejudice during the voir dire (jury selection) process.
6. Choosing judges who are free from bias or prejudice during the voir dire process.

A good lawyer will challenge presumptions at every stage of a legal proceeding. You can tell when presumptions are being prejudicially used in a legal proceeding when:

1. The judge or either party uses any of the following phrases:
   1.1. "Everyone knows. . ."
   1.2. "You knew or should have known…"
   1.3. "A reasonable [presumptuous] person would have concluded otherwise…"
2. The judge does not *exclude* the I.R.C. from evidence in the case involving a person who is not domiciled in the federal zone and provided proof of same.
3. The judge allows the Prosecutor to throw accusations at the Defendant in front of the jury without insisting on evidence to back it up.
4. The judge admits into evidence or cites a statutory presumption that prejudices your rights.

> *"It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions."*
> *[Heiner v. Donnan, 285 U.S. 312 (1932); Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.]*

5. A judge challenges your choice of domicile and/or citizenship. In such a case, the court is illegally involving itself in what actually are strictly political matters and what is called "political questions". One's choice of domicile is a political matter that may not be coerced or presumed to be anything other than what the subject himself has clearly and unambiguously stated, both orally and on government forms. See the end of the previous section.

Unscrupulous government prosecutors will frequently make use of false presumption as their chief means of winning a tax case as follows:

1. They will choose a jury that is misinformed or under-informed about the law and legal process.
2. They will use the prejudices and ignorance of the jury as a weapon to manipulate them into becoming an angry "lynch mob" with a vendetta against the Defendant.
3. They will make frequent use of "words of art" to deceive the jury into making false presumptions that will prejudice the rights of the defendant.

> *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
> *[New York Times v. Sullivan, 376 U.S. 254 (1964)]*

4. They will prevent evidence of the meaning of the words they are using from entering the court record or the deliberations. Federal judges will help them with this process by insisting that "law" may not be discussed in the courtroom.

A good judge will ensure that the above prejudice does not happen. He will especially do so where the matter involves taxation and where there is no jury or where anyone in the jury is either a taxpayer or a recipient of government benefits. He will do so in order to avoid violation of 18 U.S.C. §597, which forbids bribing of voters, since jurists are a type of voter. However, we don't have many good judges who will be this honorable in the context of a tax trial because their pay and retirement, they think, depends on a vigorous illegal enforcement of the Internal Revenue Code in violation of 28 U.S.C. §455.

> *TITLE 28 > PART I > CHAPTER 21 > § 455*
> *§ 455. Disqualification of justice, judge, or magistrate judge*
>
> *(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.*
>
> *(b) He shall also disqualify himself in the following circumstances:*
>
> *[. . .]*
>
> *(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;*

Most of the injustice that occurs in federal courtrooms across the country relating to income taxation occurs primarily because the above statute is violated. This statute wasn't always violated. It was only in the 1930's that federal judges became "taxpayers". Before that, they were completely independent, which is why most people were not "taxpayers" before that. For details on this corruption of our judiciary, see our free book *Great IRS Hoax*, sections 6.5.15, 6.5.18, 6.8.2 through 6.9.12:

http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm

The U.S. Supreme Court has declared that judges must be alert to prevent such unconstitutional encroachments upon the sacred Constitutional Rights of those domiciled in the states of the Union, when it gave the following warning, which has gone largely unheeded by federal circuit and district courts since then:

> *"It may be that **it…is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed.** A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it*

consisted more in sound than in substance. ***It is the duty of the courts to be watchful for the constitutional rights of the citizens, and against any stealthy encroachments thereon.*** *Their motto should be obsta prinicpalis," [Mr. Justice Brewer, dissenting, quoting Mr. Justice Bradley in Boyd v. United States, 116 U.S. 616, 29 L.Ed. 746, 6 Sup.Ct.Rep. 524]*
[Hale v. Henkel, 201 U.S. 43 (1906)]

If you would like to read more authorities on the subject of "presumption", see:

http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm

Another very important point needs to be made about the subject of "presumption", which is that "presumption", when it is left to operate unchecked in a federal court proceeding:

1. Has all the attributes of religious "faith". Religious faith is simply a belief in anything that can't be demonstrated with physical evidence absent presumption.
2. Turns the courtroom into a federal "church", and the judge into a "priest".
3. Produces a "political religion" when exercised in the courtroom.
4. Corrupts the court and makes it essentially into a political, and not a legal tribunal.
5. Violates the separation of powers doctrine, which was put in place to protect our rights from such encroachments.

If you would like to investigate the fascinating matter further of how the abuse of presumption in federal courtrooms has the affect of creating a state-sponsored religion in violation of the First Amendment Establishment Clause, please consult our free *Great IRS Hoax* book, sections 5.4 through 5.4.3.6 below. We strongly encourage you to rebut the evidence contained there if you find any errors or omissions:

http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm

9.5 U.S. Supreme Court on the Void for Vagueness Doctrine

The U.S. Supreme Court created a doctrine which it calls the "Void for Vagueness Doctrine". A series of cases identified in the following subsections describe the significance and operation of the doctrine. It is founded upon the notion of "due process", which we will expand upon later. An understanding of this doctrine is important in reaching any conclusions about the proper application of the rules of statutory construction, which we will discuss subsequently.

9.5.1 Connally v. General Construction Co., 269 U.S. 385 (1926)

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

...

[269 U.S. 385, 393] ... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'
[Connally v. General Construction Co., 269 U.S. 385 (1926)]

9.5.2 Sewell v. Georgia, 435 U.S. 982 (1978)

"Appellant's second argument, that 26-2101(c) is void for vagueness, also raises a substantial federal question-one of first impression in this Court-even though appellant fundamentally misapprehends the reach of the First Amendment in his argument that the protections of that Amendment extend to the sexual devices involved in this case. As we said in Grayned v. City of Rockford, 408 U.S. 104, 108 (1972):

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

"See also Papachristou v. City of Jacksonville, 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S.Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926)."
[Sewell v. Georgia, 435 U.S. 982, 985 (1978)]

9.5.3 Karlan v. City of Cincinatti, 416 U.S. 924 (1974)

"These cases all involve convictions under ordinances and statutes which punish the mere utterance of words variously described as 'abusive,' 'vulgar,' 'insulting,' 'profane,' 'indecent,' 'boisterous,' and the like. 1 The provisions are challenged as being unconstitutionally vague and overbroad. The 'void for vagueness' doctrine is, of course, a due process concept implementing principles of fair warning and non-discriminatory enforcement. Vague laws may trap those who desire to be law-abiding by not providing fair notice of what is prohibited. Papachristou v. City of Jacksonville, 405 U.S. 156, 162 (1972) ; United States v. Harriss, 347 U.S. 612, 617 (1954) . They also provide opportunity for arbitrary and discriminatory enforcement since those [416 U.S. 924 , 925] who apply the laws have no clear and explicit standards to guide them. Coates v. Cincinnati, 402 U.S. 611, 614 (1971) ; Shuttlesworth v. Birmingham, 382 U.S. 87 , 90-91, 15 L.Ed.2d. 176 (1965). Further, when a vague statute "abut[s] upon sensitive areas of First Amendment freedoms,' it 'operates to inhibit the exercise of [those] freedoms.' Uncertain meanings inevitably lead citizens to 'steer far wider of the unlawful zone . . . than if the boundaries of the forbidden areas were clearly marked." Grayned v. City of Rockford, 408 U.S. 104, 109 (1972) , quoting Baggett v. Bullitt, 377 U.S. 360, 372 (1964), and Speiser v. Randall, 357 U.S. 513, 526 (1958)."

"Overbreadth, on the other hand, 'offends the constitutional principle that 'a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms." Zwickler v. Koota, 389 U.S. 241, 250 (1967), quoting NAACP v. Alabama, 377 U.S. 288, 307 (1964). A vague statute may be overbroad if it's uncertain boundaries leave open the possibility of punishment for protected conduct and thus lead citizens to avoid such protected activity in order to steer clear of the uncertain proscriptions. Grayned v. City of Rockford supra, 408 U.S. at 109; Dombrowski v. Pfister, 380 U.S. 479, 486 (1965). A statute is also overbroad, however, if, even though it is clear and precise, it prohibits constitutionally protected conduct. Aptheker v. Secretary of State, 378 U.S. 500 , 508-509 (1964); Shelton v. Tucker, 364 U.S. 479, 488 (1960)."
[Karlan v. City of Cincinatti, 416 U.S. 924 (1974)]

9.5.4 Giaccio v. State of Pennsylvania, 382 U.S. 399 (1966)

"Law fails to meet requirements of due process clause if it is so vague and standardless that it leaves public uncertain as to conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case."
[Giaccio v. State of Pennsylvania, 382 U.S. 399; 86 S.Ct. 518 (1966)]

9.5.5 Winters v. People of State of New York, 333 U.S. 507 (1948)

"Men of common intelligence cannot be required to guess at the meaning of penal enactment.

"In determining whether penal statute is invalid for uncertainty, courts must do their best to determine whether vagueness is of such a character that men of common intelligence must guess at its meaning.

"Where a statute is so vague as to make criminal an innocent act, a conviction under it cannot be sustained."
[Winters v. People of State of New York, 333 U.S. 507; 68 S.Ct. 665 (1948)]

9.5.6 Smith v. Gougen, 415 U.S. 566, 572 (1974)

"We agree with the holdings of the District Court and the Court of Appeals on the due process doctrine of vagueness. The settled principles of that doctrine require no extensive restatement here. (fn.7) ***The doctrine incorporates notions of fair notice or warning. (fn.8) Moreover, it requires legislatures to set reasonably clear guidelines for law enforcement officials and triers of fact in order to prevent "arbitrary and discriminatory enforcement."*** *(fn.9) Where a statute's literal scope, unaided by a narrowing state court interpretation, is capable of reaching expression sheltered by the First Amendment, the doctrine demands a greater degree of specificity than in other contexts. (fn.10) The statutory language at issue here, "publicly...*

treats contemptuously the flag of the United States...," has such scope, e.g., Street v. New York, 394 U.S. 576 (1969) (verbal flag contempt), and at the relevant time was without the benefit of judicial clarification. (fn.11)"[26]
[Smith v. Gougen, 415 U.S. 566, 572 (1974)]

9.5.7 Papachristou v. City of Jacksonville, 405 U.S. 156, 172 (1972)

"This ordinance is void for vagueness, both in the sense that it 'fails ***to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute,*** *" United States v. Harriss, 347 U.S. 612, 617,* ***and because it encourages*** *arbitrary and erratic arrests and* ***convictions.*** *Thornhill v. Alabama, 310 U.S. 88; Herndon v. Lowy, 301 U.S. 242."*

"Living under a rule of law entails various suppositions, one of which is that "fall persons] are entitled to be informed as to what the State commands or forbids." *Lanzetta v. New Jersey, 306 U.S. 451, 453."*

"Lanzetta is one of a well-recognized group of cases ***insisting that the law give fair notice*** *of* ***the offending*** *conduct_ See Connally v. General Construction Co., 269 U.S. 385, 391; Cline v. Frink Dairy Co., 274 U.S. 445; United States v. Cohen Grocery Co., 255 U.S. 81. In the field of regulatory statutes governing business activities, where the acts limited are in a narrow category, greater leeway is allowed. Boyce Motor Lines, Inc. v. United States, 342 U.S. 337; United States v. National Dairy Products Corp., 372 U.S. 29; United States v. Petrillo, 332 U.S. 1."*
[Papachristou v. City of Jacksonville, 405 U.S. 156, 172 (1972)]

9.5.8 United States v. Batchelder, 442 U.S. 114, 123 (1979)

"It is a fundamental tenet of due process that "[n]o one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes." Lanzetta v. New Jersey, *306 U.S. 451, 453 (1939). A criminal statute is therefore invalid* if ***it "fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden."*** United States v. Harriss, *347 U.S. 612, 617 (1954). See* Connally v. General Construction Co., *269 U.S. 385, 391-393 (1926);* Papachristou v. Jacksonville, *405 U.S. 156, 162 (1972);* Dunn v. United States, *ante, at 112-113.* ***So too, vague sentencing provisions may pose constitutional questions if they do not state with sufficient clarity the consequences of violating a given criminal statute. See*** United States v. Evans, *333 U.S. 483 (1948);* United States v. Brown, *333 U.S. 18 (1948); cf.* Giaccio v. Pennsylvania, *382 U.S. 399 (1966)."*
[United States v. Bachelder, 442 U.S. 114, 123 (1979)]

9.5.9 Williams v. United States, 341 U.S. 97, 100 (1951)

"Criminal statutes must have an ascertainable standard of guilt or they fall for vagueness. *See* United States v. Cohen Grocery Co., *255 U.S. 81;* Winters v. New York, *333 U.S. 507."*
[Williams v. United States, 341 U.S. 97, 100 (1951)]

9.5.10 United States v. National Dairy Corp., 372 U.S. 29, 32 (1963)

"Void for vagueness simply means that criminal responsibility should not attach where one could not reasonably understand that his contemplated conduct is proscribed. United States v. Harriss, *347 U.S. 612,*

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[26] See *Smith v. Gougen,* 415 U.S. 566, 572 (1974). The Court's footnotes for this paragraph are as follows:

6. Appellant correctly conceded at oral argument that Goguen's case is the first recorded Massachusetts court reading of this language. Tr. of Oral Mg. 17-18. Indeed, with the exception of one case at the turn of the century involving one of the statute's commercial misuse provisions, *Commonwealth v. R I. Sherman Mfg. Co.,* 189 Mass. 76, 75 N.E. 71 (1905), the entire statute has been essentially devoid of state court interpretation.

7. The elements of the "void for vagueness" doctrine have been developed in a large body of precedent from this Court. The cases are categorized in, e.g., *Grayned v. City of Rockford, 408 U.S. 104, 108-109 (1972).* See Note, *The Void for Vagueness Doctrine in the Supreme Court,* 109 U.Pa.L.Rev. 67 (1960).

8. E.g., *Papachristou v. City of Jacksonville,* 405 U.S. 156, 162 (1972); *Lanzetta v. New Jersey,* 306 U.S. 451, 453 (1939) ***("No one may be required at peril*** *of life,* ***liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids")*** (citations omitted); *Connally v. General Construction Co.,* 269 U.S. 385, 391 (1926) ("[A] ***statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and*** *differ as to its application, violates the first essential of* ***due process*** *of law")* (citations omitted).

E.g., *Grayned, supra at* 108; *United States v. Cohen Grocery Co.,* 255 U.S. 81, 89 (1921) ("[T]o attempt to enforce the section would be the exact equivalent of an effort to carry out a statute which in terms merely penalized and punished all acts detrimental to the public interest when unjust and unreasonable in the estimation of the court and jury"); *United States v. Reese,* 92 U.S. 214, 221 (1876) *("It would certainly be dangerous* ***if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set*** *at large").*

617 (1954). In determining the sufficiency of the notice a statute must of necessity be examined in the light of the conduct with which a defendant is charged. Robinson v. United States, *324 U.S. 282 (1945)."*[27]
[United States v. National Dairy Corp. 372 U.S. 29, 32 (1936)]

9.6 Statutory Presumptions that Injure Rights are Unconstitutional

A statutory presumption is a presumption which is mandated by a statute. Below is an example of such a presumption, from section 7.1 earlier:

26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING.

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

What Congress is attempting to create in the above is the following false presumption:

"Any definition which uses the word 'includes' shall be construed to imply not only what is shown in the statute and the code itself, but also what is commonly understood for the term to mean or whatever any government employee deems is necessary to fulfill what he believes is the intent of the code."

We know that the above presumption is unconstitutional and if applied as intended, would violate the Void for Vagueness Doctrine described earlier in section 9.5 and following. It would also violate the rules of statutory construction described earlier in section 8.8.29 that say:

1. The purpose for defining a word within a statute is so that its ordinary (dictionary) meaning is not implied or assumed by the reader.
2. When a term is defined within a statute, that definition is provided usually to supersede and not enlarge other definitions of the word found elsewhere, such as in other Titles or Codes.

The U.S. Supreme Court has ruled many times that statutory presumptions which prejudice or threaten constitutional rights are unconstitutional. Below are a few of its rulings on this subject to make the meaning perfectly clear:

"Legislation declaring that proof of one fact of group of facts shall constitute prima facie evidence of an ultimate fact in issue is valid if there is a rational connection between what is proved and what is to be inferred. A prima facie presumption casts upon the person against whom it is applied the duty of going forward with his evidence on the particular point to which the presumption relates. A statute creating a presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process clause of the Fourteenth Amendment. *Legislative fiat may not take the place of fact in the judicial determination of issues involving life, liberty, or property. Manley v. Georgia, 279 U.S. 1 , 49 S.Ct. 215, 73 L. Ed. -, and cases cited."*
[Western and Atlantic Railroad v. Henderson, 279 U.S. 639 (1929)]

"[I]t is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must be established by proof beyond a reasonable doubt."
[McMillan v. Pennsylvania, 477 U.S. 79 (1986)]

It has always been recognized that the guaranty of trial by jury in criminal cases means that the jury is to be the factfinder. This is the only way in which a jury can perform its basic constitutional function of determining the guilt or innocence of a defendant. See, e. g., United States ex rel. Toth v. Quarles, 350 U.S. 11, 15 -19; Reid v. Covert, 354 U.S. 1, 5 -10 (opinion announcing judgment). And of course this constitutionally established power of a jury to determine guilt or innocence of a defendant charged with crime cannot be taken away by Congress, directly or indirectly, in whole or in part. Obviously, a necessary part of this power, vested by the Constitution in juries (or in judges when juries are waived), is the exclusive right to decide whether evidence presented at trial is sufficient to convict. I think it flaunts the constitutional power of courts and juries for Congress to tell them what "shall be deemed sufficient evidence to authorize conviction." And if Congress could not thus directly encroach upon the judge's or jury's exclusive right to declare what evidence is sufficient to prove the facts necessary for conviction, it should not be allowed to do so merely by labeling its encroachment a "presumption." Neither Tot v. United States, 319 U.S. 463 , relied [380 U.S. 63, 78] on by the Court as supporting this presumption, nor any case cited in Tot approved such an encroachment on the power of judges

[27] See **also** *Browning-Ferris Industries of Vermont v. Kelco- Disposal, Inc.*, 492 U.S. 257, 297, 300-301 (1989); *U.S. v. Classic*, 313 U.S. 299, 331 (1941).

or juries. ***In fact, so far as I can tell, the problem of whether Congress can so restrict the power of court and jury in a criminal case in a federal court has never been squarely presented to or considered by this Court, perhaps because challenges to presumptions have arisen in many crucially different contexts but nevertheless have generally failed to distinguish between presumptions used in different ways, treating them as if they are either all valid or all invalid, regardless of the rights on which their use may impinge.*** *Because the Court also fails to differentiate among the different circumstances in which presumptions may be utilized and the different consequences which will follow, I feel it necessary to say a few words on that subject before considering specifically the validity of the use of these presumptions in the light of the circumstances and consequences of their use.*

In its simplest form a presumption is an inference permitted or required by law of the existence of one fact, which is unknown or which cannot be proved, from another fact which has been proved. *The fact presumed may be based on a very strong probability, a weak supposition or an arbitrary assumption. The burden on the party seeking to prove the fact may be slight, as in a civil suit, or very heavy - proof beyond a reasonable doubt - as in a criminal prosecution.* ***This points up the fact that statutes creating presumptions cannot be treated as fungible, that is, as interchangeable for all uses and all purposes. The validity of each presumption must be determined in the light of the particular consequences that flow from its use. When matters of trifling moment are involved, presumptions may be more freely accepted, but when consequences of vital importance to litigants and to the administration of justice are at stake, a more careful scrutiny is necessary.*** *[380 U.S. 63, 79]*

In judging the constitutionality of legislatively created presumptions this Court has evolved an initial criterion which applies alike to all kinds of presumptions: that before a presumption may be relied on, there must be a rational connection between the facts inferred and the facts which have been proved by competent evidence, that is, the facts proved must be evidence which is relevant, tending to prove (though not necessarily conclusively) the existence of the fact presumed. *And courts have undoubtedly shown an inclination to be less strict about the logical strength of presumptive inferences they will permit in civil cases than about those which affect the trial of crimes.* ***The stricter scrutiny in the latter situation follows from the fact that the burden of proof in a civil lawsuit is ordinarily merely a preponderance of the evidence, while in a criminal case where a man's life, liberty, or property is at stake, the prosecution must prove his guilt beyond a reasonable doubt.*** *See Morrison v. California, 291 U.S. 82, 96 -97. The case of Bailey v. Alabama, 219 U.S. 219 , is a good illustration of this principle. There Bailey was accused of violating an Alabama statute which made it a crime to fail to perform personal services after obtaining money by contracting to perform them, with an intent to defraud the employer.* ***The statute also provided that refusal or failure to perform the services, or to refund money paid for them, without just cause, constituted "prima facie evidence" (i. e., gave rise to a presumption) of the intent to injure or defraud.*** *This Court, after calling attention to prior cases dealing with the requirement of rationality, passed over the test of rationality and held the statute invalid on another ground.* ***Looking beyond the rational-relationship doctrine the Court held that the use of this presumption by Alabama against a man accused of crime would amount to a violation of the Thirteenth Amendment to the Constitution, which forbids "involuntary [380 U.S. 63, 80] servitude, except as a punishment for crime." In so deciding the Court made it crystal clear that rationality is only the first hurdle which a legislatively created presumption must clear - that a presumption, even if rational, cannot be used to convict a man of crime if the effect of using the presumption is to deprive the accused of a constitutional right.***
[United States v. Gainly, 380 U.S. 63 (1965)]

The reason a statutory presumption that injures rights is unconstitutional was also revealed in the Federalist Papers, which say on the subject:

*"**No legislative act [including a statutory presumption] contrary to the Constitution can be valid. To deny this would be to affirm that the deputy (agent) is greater than his principal; that the servant is above the master; that the representatives of the people are superior to the people; that men, acting by virtue of powers may do not only what their powers do not authorize, but what they forbid…[text omitted] It is not otherwise to be supposed that the Constitution could intend to enable the representatives of the people to substitute their will to that of their constituents**. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts.* ***A Constitution is, in fact, and must be regarded by judges, as fundamental law****. If there should happen to be an irreconcilable variance between the two, the Constitution is to be preferred to the statute."*
[Alexander Hamilton, Federalist Paper #78]

The implication of the prohibition against statutory presumptions is that:

1. No natural person who is domiciled within a state of the Union and protected by the Bill of Rights may be victimized or injured in any way by any kind of statutory presumption.
2. Statutory presumptions may *only* lawfully be applied against legal "persons" who do not have Constitutional rights, which means corporations or those natural persons who are domiciled in the federal zone, meaning on land within

exclusive federal jurisdiction that is not protected by the First Ten Amendments to the United States Constitution. See *Downes v. Bidwell*, 182 U.S. 244 (1901).

3. Any court which uses "judge made law" to do any of the following in the case of a natural person protected by the Bill of Rights is involved in a conspiracy against rights:
   3.1. Imposes a statutory or judicial presumption.
   3.2. Extends or enlarges any definition in the Internal Revenue Code based on any arbitrary criteria.
   3.3. Invokes an interpretation of a definition within a code which may not be deduced directly from language in the code itself.

The above inferences help establish who the only proper audience for the Internal Revenue Code is, which is federal corporations, agents, and employees and those domiciled within the federal zone, and excluding those within states of the Union. The reason is that those domiciled in the federal zone are not protected by the Bill of Rights. The only exception to this rule is that any natural person who is domiciled in a state of the Union but who is exercising agency of a federal corporation or legal "person" which has a domicile within the federal zone also may become the lawful subject of statutory presumptions, but only in the context of the agency he is exercising. For instance, we demonstrate in our document below:

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

that those participating in the Social Security program are deemed to be "agents", "employees", and "fiduciaries" of the federal corporation called the United States, which has a "domicile" in the federal zone (District of Columbia) under 4 U.S.C. §72. Therefore, unless and until they eliminate said agency using the above document, statutory presumptions may be used against them without an unconstitutional result, but only in the context of the agency they are exercising.

9.7 Application of "Expressio unius est exclusio alterius" rule

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

The above important rule establishes that what is not enumerated in law can safely be ignored. The Supreme court has said about the above rule:

1. That it is a rule of statutory construction and interpretation, and not a substantive law. See *U.S. v. Barnes*, 222 U.S. 513 (1912).
2. That the rule can never override clear and contrary evidences of Congressional intent. See *Neuberger v. Commissioner of Internal Revenue*, 311 U.S. 83 (1940).
3. A few exceptions to the *Exclusio Rule* were made in the following cases:
   3.1. *Springer v. Government of the Philippine Islands*, 277 U.S. 189 (1928)
   3.2. *U.S. v. Barnes*, 222 U.S. 513 (1912)
   3.3. *Neuberger v. Commissioner of Internal Revenue*, 311 U.S. 83 (1940)
4. For examples of the use of the above rule of statutory construction, see the following U.S. Supreme Court Rulings: *Tennessee Valley Auth. v. Hill*, 437 U.S. 153, 188 (1978); *Passenger Corp. v. Passengers Assoc.*, 414 U.S. 453, 458 (1974); *Bingler v. Johnson*, 394 U.S. 741, 749 (1969); *Evans v. Newton*, 382 U.S. 296, 311 (1966); *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 375 (1958)).

The reason for the above rule is two fold:

1. A fundamental requirement of Constitutional due process is "due notice". This means that a law must warn an individual exactly and specifically what the law requires and what is prohibited. Therefore, it must describe all of the persons and things and behaviors EXACTLY to which it applies.

> *"One of the important steps in the enactment of a valid law is the requirement that it shall be made known to the people who are to be bound by it. There would be no justice if the state were to hold its people responsible*

for their conduct before it made known to them the unlawfulness of such behavior. In practice, our laws are published immediately upon their enactment so that the public will be aware of them."
[How Our Laws Are Made, Chapter 19, U.S. Government Printing Office
http://thomas.loc.gov/home/lawsmade.toc.html]

To enforce a law that does not meet this requirement violates not only the requirement for "due notice", but more importantly violates the "void for vagueness doctrine", which states:

"Men of common intelligence cannot be required to guess at the meaning of penal enactment.

"In determining whether penal statute is invalid for uncertainty, courts must do their best to determine whether vagueness is of such a character that men of common intelligence must guess at its meaning.

"Where a statute is so vague as to make criminal an innocent act, a conviction under it cannot be sustained."
[Winters v. People of State of New York, 333 U.S. 507; 68 S.Ct. 665 (1948)]

2. In addition to the above, a statute also may NOT create or encourage presumption. Statutory presumptions are absolutely forbidden where they impair or injure Constitutionally guaranteed rights. If the reader is required to "presume" what is included in a statute or regulations or if he must rely on a judge rather than the law itself to decide what is "included", then we have violated the legislative intent of the Constitution, which was to create a society of law and not of men:

*"**The government of the United States has been emphatically termed a government of laws, and not of men**. It will certainly cease to deserve that high appellation, if the laws furnish no remedy for the violation of a vested legal right."*
[Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)]

Either "presuming" or being compelled by the court to "presume" something that isn't actually written in the law, especially where it would prejudice Constitutional rights, is a violation of due process and represents a gross injury to the rights of the Alleged Defendant. Below is the U.S. Supreme Court's condemnation of such statutory presumptions in *United States v. Gainly*, 380 U.S. 63 (1965). Notice that they go so far as to call the consequences of such a presumption slavery in violation of the Thirteenth Amendment. This is a very important point:

Looking beyond the rational-relationship doctrine the Court held that the use of this presumption by Alabama against a man accused of crime would amount to a violation of the Thirteenth Amendment to the Constitution, which forbids "involuntary [380 U.S. 63, 80] servitude, except as a punishment for crime." *In so deciding the Court made it crystal clear that rationality is only the first hurdle which a legislatively created presumption must clear - that a presumption, even if rational, cannot be used to convict a man of crime if the effect of using the presumption is to deprive the accused of a constitutional right. In Bailey the constitutional right was given by the Thirteenth Amendment. In the case before us the accused, in my judgment, has been denied his right to the kind of trial by jury guaranteed by Art. III, 2, and the Sixth Amendment, as well as to due process of law and freedom from self-incrimination guaranteed by the Fifth Amendment. And of course the principle announced in the Bailey case was not limited to rights guaranteed by the Thirteenth Amendment. The Court said in Bailey:*

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

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

9.8 Meaning of "extension" and "enlargement" context of the word "includes"

Earlier in this document, we quoted the definition of "includes" from Black's Law Dictionary. We have underlined and emphasized that portion which we shall address in this section:

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

enlargement or of illustrative application as well as a word of limitation. *Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d. 227, 228."*
[Black's Law Dictionary, Sixth Edition, p. 763]

The Supreme Court has ruled that the use of the word "includes" as a term of enlargement" or "extension" is the exceptional and not usual use:

The determining word is, of course the word 'including.' It may have the sense of addition, [221 U.S. 452, 465] as we have seen, and of 'also;' but, we have also seen, 'may merely specify particularly that which belongs to the genus.' Hiller v. United States, 45 C. C. A. 229, 106 Fed. 73, 74. It is the participle of the word 'include,' which means, according to the definition of the Century Dictionary, (1) 'to confine within something; hold as in an inclosure; inclose; contain.' (2) 'To comprise as a part, or as something incident or pertinent; comprehend; take in; as the greater includes the less; . . . the Roman Empire included many nations.' 'Including,' being a participle, is in the nature of an adjective and is a modifier."

...

*"...**The court also considered that the word 'including' was used as a word of enlargement, the learned court being of opinion that such was its ordinary sense. With this we cannot concur. It is its exceptional sense, as the dictionaries and cases indicate.** We may concede to 'and' the additive power attributed to it. It gives in connection with 'including' a quality to the grant of 110,000 acres which it would not have had,-the quality of selection from the saline lands of the state. And that such quality would not exist unless expressly conferred we do not understand is controverted. Indeed, it cannot be controverted...."*
[Montello Salt Co. v. Utah, 221 U.S. 452 (1911)]

A favorite tactic of those who wish to illegally expand the public perception of federal jurisdiction is to zero in on the use of the word "includes" as a word of "enlargement". They will first cite 26 U.S.C. §7701(c) :

26 U.S.C. Sec. 7701(c) INCLUDES AND INCLUDING.

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

Then they will try to imply that the above definition allows for:

1. The inclusion of the common meaning or use of the word IN ADDITION to that context in which it is defined in the code. This violates the rules of statutory construction summarized earlier in section 8.8.29, rules 6 and 7.
2. The inclusion of subjects or things which are not specifically pointed out in the code itself. This is a violation of the "Expressio unius est exclusion alterius" rule covered in the previous section.
3. The inclusion of anything the government or the reader wants to include. This is a violation of the Supreme Court ruling in the case of *Marbury v. Madison*, which unequivocally stated that we are a society of law and not of men. The meaning of the law cannot be mandated to be decided by any man, but only by a reader of average intelligence.

"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right…"

*"The government of the United States is the latter description. **The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act."***
[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803)]

As the above case points out, the government of the United States is one of finite, limited, and delegated powers. The limits imposed by the Constitution, Ninth and Tenth Amendments, upon our public servants are there to protect our rights and freedoms and for no other reason. The purpose of law, in fact, is to define and limit government power. Law is incapable of performing that essential role of protection from government abuse when:

1. A statute compels a presumption (called a "statutory presumption") which violates or prejudices the Constitutional rights of the litigant.
2. Judge-made-law compels presumptions or uses presumptions as a substitute for REAL, positive law evidence.
3. The law uses terms whose definition is uncertain.
4. The law uses terms that can only be understood subjectively.
5. The law uses terms that can be interpreted to mean whatever the reader or a government bureaucrat wants them to mean.

The Supreme Court related why the above tactics represent malicious abuses of legal process when it created what it calls "the void for vagueness doctrine":

> *"That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and* ***a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.*** *International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S.Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S.Ct. 924*
>
> ...
>
> *[269 U.S. 385, 393] ...* ***The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions****. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.' [Connally v. General Construction Co., 269 U.S. 385 (1926)]*

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

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

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

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

> *Chapter 2 Definitions*

Section 10 Definition of "fruit"

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

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

> *"**In definitive provisions of statutes and other writings, 'include' is frequently, if not generally, used as a word of extension or enlargement [meaning "in addition to"] rather than as one of limitation or enumeration.** Fraser v. Bentel, 161 Cal. 390, 394, 119 P. 509, Ann.Cas. 1913B, 1062; People ex rel. Estate of Woolworth v. S.T. Comm., 200 App.Div. 287, 289, 192 N.Y.S. 772; Matter of Goetz, 71 App.Div. 272, 275, 75 N.Y.S. 750; Calhoun v. Memphis & P.R. Co., Fed. Cas. No. 2,309; Cooper v. Stinson, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with 'shall include,' others with 'shall mean.' The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, 'shall include' is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of 'shall mean' to enumerate and restrict and of 'shall include' to enlarge and extend. Subsection (17) declares 'oath' shall include affirmation, Subsection (19) declares 'persons' shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that 'shall include,' as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of 'shall mean' or 'shall include only.' [287 U.S. 513, 518] There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) 'creditors' should be given the meaning usually attributed to it when used in the common-law definition of fraudulent conveyances. See Coder v. Arts, 213 U.S. 223, 242 , 29 S.Ct. 436, 16 Ann.Cas. 1008; Lansing Boiler & Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; Githens v. Shiffler (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. Yeend v. Weeks, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; Whitehouse v. Bolster, 95 Me. 458, 50 A. 240; Mowry v. Reed, 187 Mass. 174, 177, 72 N.E. 936; Stone v. Myers, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; Cook v. Johnson, 12 N.J.Eq. 51, 72 Am.Dec. 381; American Surety Co. v. Hattrem, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; U.S. Fidelity & Guaranty Co. v. Centropolis Bank (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; Thomson v. Crane (C.C.) 73 F. 327, 331."*
> *[American Surety Co. of New York v. Marotta, 287 U.S. 513 (1933)]*

9.9 Three Proofs that demonstrate the proper meaning of the word "includes"

In this section, we shall use evidence from the Internal Revenue Code and the IRS' own Internal Revenue Manual to establish the proper use of the word "includes". We will statistically examine three different aspects about the use of the word "includes" within these sources in order to prove that the only conclusion a reasonable person can reach about the use of the word "includes" and "including" is that it is used as a term of "limitation" in these sources unless accompanied by "in addition to".

9.9.1 PROOF #1: Internal Revenue Code (I.R.C.) uses of the word "includes"

The Internal Revenue Code defines the words "includes and including' under Title 26, Section 7701(c):

Title 26 – Section 7701(c) Includes and Including.

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

Let us accept this definition for now on its face. If we are to accept the definition under 7701(c) then why is the Internal Revenue Code using the phrase 'but not limited to' twenty-five (25) times in the 2003 version Internal Revenue Code – while the code already defines it to include other things not listed? Logically, this can mean that "includes" and "including" are to be limiting terms, because obviously there are (25) instances where the phrase 'but not limited to' has been used. Through logical reasoning, this implies that there are instances in the Internal Revenue Code where "includes" and 'including' are to be used "expansively". Here are the following sections that use the phrase 'including but not limited to' or "includes but not limited to" in Section order through the Internal Revenue Code:

1- Section 61(a) Gross income defined
2- Section 127(c)(1) Educational assistance programs
3- Section 162(e)(2)(B) Trade or business expenses
4- Section 162(j)(2) Trade or business expenses
5- Section 175(c)(1) Soil and water conservation expenditures
6- Section 190(a)(3) Expenditures to remove architectural and transportation barriers to the handicapped and elderly
7- Section 382(m) Limitation on net operating loss carry forwards and certain built-in losses following ownership
8- Section 415(j) Limitations on benefits and contribution
Section 416(f)
9- Section 509(d) Definition of supp ort
10- Section 513(d)(2) Unrelated trade or business
11- Section 513(d)(3)(A) Unrelated trade or business
12- Section 613(B)(7) Percentage depletion
13- Section 851(B) (2) Definition of regulated investment company
14- Section 852(B)(5)(B) Taxation of regulated investment companies and their shareholders
15- Section 901(e)(2) Taxes of foreign countries and of possessions of United States
16- Section 954(f) Foreign base company income
17- Section 955(B)(1) Withdrawal of previously excluded subpart F income from qualified investment
18- Section 1253(a)(2) Transfers of franchises, trademarks, trade names
19- Section 1504(a)(5) Definitions
20- Section 4462(i) Definitions and special rules
21- Section 4942(g)(2)(B) (ii)(III) Failure to distribute income
22- Section 5002(a)(5)(B) Definitions
23- Section 5006(a)(1) Determination of tax
24- Section 7624(a) Reimbursement to State and local law enforcement agencies
25- Section 9712(c)(2) Establishment and coverage of 1992 UMWA Benefit Plan

The history of the Internal Revenue Code also documents that the phrase “but not limited to” was also used. The term “includes and including” were defined in this version the same way as it is defined in the 1986 version of the Internal Revenue Code. For instance, there were 6 instances of the phrase 'including but not limited to' in the Internal Revenue Code (1954 Version):

1- Section 61 Gross Income Defined
2- Section 175(c)(1) Soil and Water Conservation Expenditures
3- Section 346 (a)(2) Partial Liquidation defined
4- Section 613 (B)(6) Percentage depletion
5- Section 5006 (a)(1) Determination of tax
6- Section 5026 Determination and collection of rectification tax

Question for doubters that “includes” is a limiting term in the Internal Revenue Code:

If Congress and the Internal Revenue Service would like us to believe that the words “includes” and “including” are to be understood “expansively”, then why add the phrase “but not limited to” used 25 times in the Internal Revenue Code of 1986 and 6 instances of it in the 54 Code?

9.9.2 PROOF #2: The I.R.C. definition of “gross income”

This proof is a bit complex and requires a little analysis. Below is section 61 of the Internal Revenue Code:

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B > PART I > § 61
§ 61. Gross income defined

Section 61(a) Gross income defined – Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:
(1) Compensation for services, including fees, commissions fringe benefits, and similar items.
(2) Gross income derived from business

(3) Gains derived from dealings in property
(4) Interest
(5) Rents
(6) Royalties
(7) Dividends
(8) Alimony and separate maintenance payments
(9) Annuities
(10) Income from life insurance and endowment contracts
(11) Pensions
(12) Income from discharge of indebtness
(13) Distributive share
(14) Income in respect of a decedent and
(15) Income from an interest in an estate

Based on this Section 61(a) definition, we are to understand that "gross income" is to mean the 15 elements above and ANYTHING that is ALSO NOT listed in that category. Taking that statement into consideration, we now are confronted with 37 sections of the Internal Revenue Code Sections which use the phrase:

"gross income does not include"

at least once within their respective sections, and then lists various elements. The above phrase proves a contradiction, within the I.R.C. because there appears to be some sort of 'definition deadlock' where 'gross income' means nothing at all! Below is the list of specific sections which use the above phrase so you can prove the contradiction yourself.

Section 101(a)
Section 101(h)(1)
Section 102(a)
Section 103(a)
Section 104(a)
Section 105(c)
Section 106(a)
Section 107
Section 108(a)(1)
Section 108(f)(1)
Section 109
Section 110(a)
Section 111(a)
Section 112(a)
Section 112(B)
Section 112(d)(1)
Section 112(d)(2)
Section 114(a)
Section 115
Section 117(a)
Section 117(d)(1)
Section 118(a)
Section 120(a)
Section 121(a)
Section 122(a)
Section 123(a)
Section 126(a)
Section 127(a)
Section 127(c)(1)
Section 129(a)
Section 131(a)
Section 132(a)
Section 132(j)(4)
Section 134(a)
Section 136(a)

Section 138(a)
Section 139(a)

The IRS is fond of lying to us by saying that 'includes' and 'including' are to be EXPANSIVELY. We accept that definition and apply it to Section 61(a) 'gross income' and also apply it to the above 37 sections. Next, we take the above 37 sections and apply the same 'includes' and 'including' rule. For instance, when one section states 'gross income does NOT include A B C D and E' – then we can claim that gross income does NOT INCLUDE anything, because we are told to use the word EXPANSIVELY.

If our critics DISMISS this proof, then LOGICALLY this would mean that the they admit that the word 'includes' and 'including' are used in a limiting rather expansive way, in the above 37 sections. As a result, this would also prove that the phrase 'includes' and 'including' CAN ALSO be used in a limiting way, DESPITE Section 7701(c). In turn, this would introduce the 'void for vagueness' doctrine.

In conclusion, either way you look at it "includes and including" are words in such a way that they compel men of common intelligence must necessarily have to guess at its meaning, which the Supreme Court said no law can do.

Following the illogic of our detractors leads to the conclusion that the Internal Revenue Code is filled with such contradictions with 'includes' and 'does not include'. For instance, Section 1273 uses the word 'includes' and 'include' in a very interesting manner:

> *Section 1273(B)(5) – Property. In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.*

If one states that 'include' and 'includes' is used EXPANSIVELY in this Section, then the word 'property' as used in that Section means nothing! If one states that 'include' and 'includes' is used in a LIMITATING way, then this proves that 'include' and all of its derivatives as used in the Code are void for vagueness.

Here is another interesting way the word 'include' is used, as found in Section 1301(B)(2), in which the same LOGIC can be used:

> *Section 1301(B)(2) – Individual. The term 'individual' shall not include any estate or trust.*

Here is another Section that uses the word 'include' in a very interesting way in Section 3405(e)(11):

> *Section 3405(e)(11) – Withholding includes deduction. The term 'withholding' 'withhold' and 'withheld' include 'deducting' 'deduct' and 'deducted'*

An important question that might be asked is – What if Congress wished to use the word 'include' or any of its derivatives in a limiting way? What would it need to do?

Answer: They would need to add the word 'only' before or after the word 'include' as they have done so with the Sections below.

In Section 132(k):

> *"Customers not to include employees – for the purposes of this section (other than subsection ©(2)), the term 'customers' shall **only include** customers who are not employees."*

In Section 164(B)(2) and Section 164(B)(3):

> *"(2) State or Local taxes – A State or local taxes **includes only** a tax imposed by a State, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.*
>
> *(3) Foreign taxes. A foreign tax **includes only** a tax imposed by the authority of a foreign country."*

In Section 7701(a)(9):

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

CONCLUSION OF THIS PROOF: The word "includes" and all of its derivatives is either used as a word of limitation or is void for vagueness.

9.9.3 PROOF #3: IRS uses of the word in their own Internal Revenue Manual (IRM)

Believe it or not, the Internal Revenue Service itself uses the words "includes" and 'including' in a limiting way. Ironically, the Internal Revenue Service's own, Internal Revenue Manual (IRM) can prove this! The Manual as of April 15, 2004 uses the phrases"

"includes but is not limited to" or

"including but not limited to"

(426) times. Furthermore, the IRM at time when it deems necessary, uses the phrase "includes" or "including" WITHOUT using the phrase "but not limited to"'. Obviously, the Manual recognizes this distinction. The deception is revealing. Below is the list of IRM sections which contain the above two phrases:

1.1.10.1 - Equal Employment Opportunity and Diversity
1.1.12.2.1 - Office of Security Standards and Evaluation
1.1.16.6.1 - Program Management
1.2.1.5.19 - Collection Activity
1.2.4.7 - Additional Information
1.4.1.7 Employee Development and Training
1.4.16.5.4 - Workload Reviews
1.4.20.3 – Extracts
1.4.50.2 - Role of the Collection Field function (CFf) Manager
1.4.50.3 Protecting Taxpayer Rights
1.4.50.5.4 - Other Managerial Responsibilities
1.4.50.5.5 – Administrative
1.4.50.5.7 - Employee Development and Training
1.4.50.5.12 - Interaction With Employees on Flexiplace
1.5.2.7 - Reason for Prohibitions on the Use of ROTERs
1.5.2.9 - Records of Tax Enforcement Results (ROTERS)
1.5.2.12 Exercise of Judgment in Pursuing Enforcement of the Tax Laws
1.5.3.3 - Certification and Waiver Requirements
1.5.4.4 - Tax Enforcement Results
1.5.4.5 - Examples of Section 1204 Employees in Appeals
1.5.5.3 (10-01-2000) - Use of ROTERs in Evaluations
1.5.5.4 (10-01-2000) - Other Measures and Statistics
1.5.6.2 - Definition and Examples of Section 1204 Employees in LMSB
1.5.6.3 - What Are Tax Enforcement Results?
1.5.6.4 (10-01-2000) - What are NOT Tax Enforcement Results?
1.5.6.5 - What are Records of Tax Enforcement Results (ROTERS)
1.5.6.6 - What are Quantity and Quality Measures?
1.5.7.7 - Section 1204 Employees
1.5.7.9 - Tax Enforcement Results (TERS)
1.5.7.10 - Records of Tax Enforcement Results (ROTERS
1.5.7.12 - Quality Measures
1.5.8.3 - Self-Certification
1.5.9.2 (10-01-2000) Examples of Section 1204 Employees in TE/GE
1.5.9.3 - What Are Tax Enforcement Results
1.5.9.5 - What Are Records of Tax Enforcement Results (ROTERS)
1.5.10.3 - What Are Tax Enforcement Results?

1.5.10.4 - What are Records of Tax Enforcement Results?
1.5.10.8 - What are Quantity and Quality Measures?
1.11.1.4.2 (07-01-2003) - IMD Coordinator Responsibilities
1.11.1.5 (07-01-2003) - Routing and Clearing IMDs
1.15.7.4 (01-01-2003) Subject Files
1.16.8.3.4 (07-01-2003) Significant Incidents
1.16.10.3 (07-01-2003) – Planning
1.16.13.3.4.1 (07-01-2003) – Disposition
1.16.14.10 (07-01-2003) - Automatic Detection Equipment
1.17.6.7.2 (11-01-2003) - Work Planning and Control (WP&C)
1.22.6.1.2 (05-28-2002) – Responsibility
1.22.7.5.1 (05-28-2002) - Shipment Valuation
1.23.2.1.3 (02-01-2003) – Definitions
1.23.2.2 (02-01-2003) - General Investigative Requirements
1.23.3.1.3 (01-02-2000) – Definitions
1.54.1.3.1 (09-30-2003) - Elevation to Inform Managers or Executives
1.54.1.3.2 (09-30-2003) - Elevation to Obtain a Decision
1.54.1.6.6 (09-30-2003) - Commissioner and Deputy Commissioner, TE/GE
3.0.257.3.1 (10-01-2002) - Centralized File
3.0.273.3.5 (01-01-2003) - Form 9345, Editorial Change Request
3.0.275.5.5.3 (12-01-2002) - Deposit Error Rate Summary Reports
3.8.45.6.40 (02-01-2004) - Processing Items From NCS, EFAST Processing Center OSPC only
3.13.5.12 (01-01-2004) - Oral Statement, Change of Address
3.13.5.14.1 (01-01-2004) - Updating Address Records
3.17.63.19.1 (10-01-2003) - After Hours Assessments
3.21.260.10 (10-01-2002) - Unacceptable Documentation
3.30.28.5.2.1 (03-01-2003) - BMF Entity SS-4 Review
3.30.28.5.2.2 (03-01-2003) - BMF Returns Received Without EIN's
3.30.28.5.3.2 (03-01-2003) - FTD Penalty Adjustments
3.30.28.5.3.3 (03-01-2003) - FTD Review for Accounting
3.31.125.3 (01-01-2004) - Types of Forms Used to Submit IRM/Program Changes
4.1.4.23 (05-19-1999) – Nonfilers
4.1.7.4 (05-19-1999) - Control and Management of Tax Return and Return Information
4.2.2.4 (10-01-2003) - Identification of Bad Payer Data
4.2.3.3.1.1 (10-01-2003) - Examples of Area Counsel Assistance
4.2.4.2 (10-01-2003) - Responsibilities of Examiners
4.3.1.1 (05-18-1999) – Overview
4.3.2.6 (05-18-1999) - Compliance/Compliance Services Exam Operation
4.4.24.7.1 (02-08-1999) - Manager's Responsibility
4.4.27.7.1.4 (02-08-1999) – Missing Document
4.4.35.9 (02-08-1999) - Resolving Unpostables without Source Docs.
4.5.2.1.3.1 (06-01-2003) - POA/TIA
4.6.1.1.2 (06-20-2002) – Outreach
4.6.1.1.6 (06-20-2002) - Third Party Contacts
4.7.4.4.1 (10-01-2003) - Role and Responsibilities of Support Manager, Planning and Special Programs Section
4.7.4.4.2 (10-01-2003) - Role and Responsibilities of the Project/Program Manager
4.7.5.7.1 (10-01-2003) - Role and Responsibilities of the Technical Employee
4.7.6.2.1 (10-01-2003) - Overage Report (IVL)/Inventory Listing
4.7.6.2.2 (10-01-2003) - Status Report
4.7.6.2.8 (07-31-2000) - Closed Case Report
4.7.6.2.9 (07-31-2000) - Tracking Code Report
4.7.6.2.10 (10-01-2003) - Suspense Report
4.7.6.3 (10-01-2003) - Time Analysis
4.7.6.3.2 (10-01-2003) - Case Time Analysis Report
4.7.6.3.5 (07-31-2000) - Inactive Case Report

4.7.6.5.1 (10-01-2003) - Activity Code Count Report
4.7.7.4 (10-01-2003) - Role and Responsibilities of Technical Services Manager Staff/Section
4.7.7.4.1 (10-01-2003) - Role and Responsibilities of Reviewer
4.7.7.4.2 (10-01-2003) - Role and Responsibilities of Secretary/Clerk
4.7.8.4 (10-01-2003) - Role and Responsibilities of Case Processing Support Manager and Managers
4.7.8.4.1 (10-01-2003) - Role and Responsibilities of Case Processing Support Users
4.7.9.4 (10-01-2003) - Role and Responsibilities of Chief Users
4.7.9.4.1 (10-01-2003) - Role and Responsibilities of Secretary and Clerical Staff
4.7.10.4 (10-01-2003) - Role and Responsibilities of the ERCS Functional Coordinator
4.7.11.3 (10-01-2003) - Role and Responsibilities of the System Administrator
4.8.5.4.1 (10-01-2003) - Completion of TEFRA Procedures by Examiners
4.10.1.6.12.1 (05-14-1999) - Third Party Contacts – Definition
4.10.2.7.1 (05-14-1999) - Determining the Proper Person to Contact
4.10.3.3.5 (03-01-2003) - Inspection of a Taxpayer's Residence
4.10.3.16.6 (03-01-2003) – Work papers
4.10.4.6.3.4 (05-14-1999) - Gross Receipts Defined
4.10.8.15.1 (05-14-1999) - Determination of Taxpayer Compliance
4.10.9.2.5 (05-14-1999) - Supporting Work papers
4.10.9.3.1 (05-14-1999) - Activity Records
4.12.2.3.1 (04-30-1999) - Field Territory Managers Guidelines for Cases Involving IRC
4.12.2.4.1 (04-30-1999) – General
4.16.1.2 (01-01-2003) – Introduction
4.19.1.6.3 (10-01-2001) - incorrect Arguments
4.19.1.6.13.2 (10-01-2001) - Auditing Standards-Non-filer Returns
4.19.1.7.3.7 (10-01-2001) - Clerical Review
4.19.1.8 (10-01-2002) - Telephone Contacts
4.19.4.2 (03-01-2003) - CAWR Case Screening
4.20.2.2 (05-25-2000) - General Collectability Considerations
4.20.3.2 (05-25-2000) - Tiered Interview Approach
4.23.3.5 (03-01-2003) - Employment Tax Leads
4.23.3.10.6 (03-01-2003) - Third Party Authorization/Power of Attorney
4.23.5.2.2.2 (02-01-2003) - Consistency Requirement-Substantive Consistency
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25.15.7.10.14 (09-01-2003) - Exceptions to Innocent Spouse Provisions
25.16.5.13 (06-01-2003) - Compliance Field Operations - Collection Procedures
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25.17.6.8 (07-01-2002) - Unassessed Claims
30.3.1.2.1.2 (06-18-1996) - Deputy Chief Counsel
30.3.1.2.3.3 (09-29-1997) - Assistant Chief Counsel (Disclosure Litigation)
30.4.2.9.5.1 (03-29-1995) - Responsibility for Establishing and Maintaining EPFs
30.4.5.6.3 (06-18-1996) – Testing
30.4.7.3.3 (01-16-1998) - Committee Operations and Functions
30.4.8.3.14 (03-2194) - Actions Included
30.4.8.7.1 (04-15-1999) - Matters to be Referred to the Deputy Chief Counsel for Referral to the Treasury Inspector General for Tax Administration

30.4.8.7.2 (04-15-1999) - Matters to be Referred to the Deputy Chief Counsel for Consideration
30.4.8.7.4 (04-15-1999) - Matters Which May Be Handled Under Local Procedures
31.1.1.1 (04-18-1997) - Authority of Chief Counsel's Office
31.3.2.1 (12-11-1989) - Exceptions Generally
31.4.4.13 (12-09-1997) - Gasoline Excise Tax
31.8.3.2 (06-29-1994) – Seizures
34.6.1.3 (06-11-1999) - General Litigation Division Prereview
34.12.3.7.1 (06-22-1999) - Requests Referred Directly to the United States Attorney
35.4.16.13 (07-14-1992) - Attorney Fees: Processing Issues Under the Equal Access to Justice Act (Pub. L. No. 96-481)
35.8.12.7.1 (12-13-1999) - Field Responsibilities with Respect to Obtaining and Disseminating Chief Counsel Advice
35.13.2.1 (01-24-1996) - Responsibilities and Functions (Department of Justice, National Office, Field Offices)
35.13.10.3 (07-11-1991) - Assessment in Appealed Cases
42.2.2.1 (06-15-1988) - Formal Document Request
42.10.9.1 (11-15-1996) - Coordination with Ongoing Litigation
42.10.10.1 (11-15-1996) - Application of APA Methodology to Prior Years

It is obvious that the Internal Revenue Manual (IRM) recognizes the difference between:

1. "includes" and "include but not limited to"
2. "including" and "including but not limited to"

9.10 Techniques for Malicious Abuse of the rules of Statutory Construction by Misbehaving Public Servants

The most famous type of abuse of the rules of statutory construction occurs in the context of terms used within the Internal Revenue Code that are used to define and limit the jurisdiction of the Internal Revenue Code. The only purpose for such abuse is to extend federal jurisdiction beyond the clear limits imposed by the code itself in order to enlarge federal revenues.

> *"The love of money is the root of all evil."*
> *[1 Tim. 6:10]*

The definitions within the Internal Revenue Code which are most frequently abused in this way are the following, all of which incorporate the word "includes" into their definitions:

1. "employee": 26 U.S.C. §3401(c)
2. "gross income": 26 U.S.C. §872
3. "person": 26 U.S.C. §7701(a)(1), 26 U.S.C. §7343, 26 U.S.C. §6671(b)
4. "State": 26 U.S.C. §7701(a)(10)
5. "trade or business": 26 U.S.C. §7701(a)(26)
6. "United States": 26 U.S.C. §7701(a)(9)

Tyrants in government will frequently point to the above words, when used by an American, and point out that the definitions of the terms use the word "includes". They will then cite the definition of "includes" found in 26 U.S.C. §7701(c) and try to "enlarge" or expand the definition using some arbitrary criteria that financially benefits them, and in clear violation of the uses for that context of the word described in the previous section. They will attempt to imply that I.R.C. 7701(c) gives them carte blanche authority to include whatever they subjectively want to add into the definition of the term being controverted. This approach obviously:

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

> ***"When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is,***

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

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

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

7. Compels "presumption" and therefore violates due process of law.
8. Injures the Constitutional rights of the interested party.

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

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

9.11 Summary: Precise Meaning of "includes"

This section shall attempt a concise, complete, and more useful definition of the word "includes" which removes the controversies over the use of the word so commonly found throughout the freedom community. In doing so, we started with the definition from Black's Law Dictionary, Sixth Edition, and expanded upon it as little as possible so that the clear meaning can clearly and unambiguously be understood. The intention of doing so is to prevent false presumption and abuses of due process by those with a political or financial agenda who work in the tax profession or for the government. The added language is shown underlined in order to emphasize what we added to the definition in order to make it clearer:

> *"**Include**. (Lat. Inclaudere, to shut in. keep within.) To confine within, hold as an inclosure. Take in, attain, shut up, contain, inclose, comprise, comprehend, embrace, involve. Term may, according to context, express an enlargement and have the meaning of and or in addition to, or merely specify a particular thing already included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d. 227, 228." When 'Includes" is used as a term, of "enlargement" or "expansion", it is only in the context of a definition which is spread across multiple sections of a title or code and which refer and/or relate to each other, each of which usually use the phrase "in addition to". If the definition of a word within a Title of a code is only found in **one** place, it is always used only as a term of limitation and is equivalent to "is limited to". When "includes" it is used in the context of a definition, it may safely be concluded that the purpose of providing the definition was to **supersede, and not extend**, the commonly understood meaning of the term. Stenberg v. Carhart, 530 U.S. 914 (2000) **("When a statute includes an***

> ***explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning.*** *Meese v. Keene, 481 U.S. 465, 484-485 (1987)" Any other method or construction or interpretation of a statute compels a statutory presumption and therefore violates due process of law. United States v. Gainly, 380 U.S. 63 (1965) All presumption which prejudices constitutionally guaranteed rights is impermissible in any court of law.* Vlandis v. Kline, *412 U.S. 441, 449, 93 S.Ct 2230, 2235 (1973); Cleveland Bd. of Ed. v. LaFleur, 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215 (1974)"*
> *[Black's Law Dictionary, Sixth Edition, p. 763]*

10 Methods for opposing bogus government defenses of the unlawful use of the word "includes"

The following subsections will document some of the more prevalent methods for opposing false and fraudulent government abuses of the word "includes" to unlawfully expand federal jurisdiction and thereby destroy the separation of powers doctrine that is the foundation of our liberties. The goal of all of the approaches documented is to remove presumption from the legal process and require that every source of reasonable belief derives from admissible evidence and not presumption. If you would like to know more about how presumption is abused to perpetuate misapplication of and violation of the law, see:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm

10.1 Not a "definition"

One effective technique for opposing the abuse of the word "includes" to "stretch" definitions within the Internal Revenue Code involves the definition of the word "Definition" found in Black's Law Dictionary:

> ***definition***. *A description of a thing by its properties; an explanation of the meaning of a word or term.* ***The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential****, as to distinguish it from all other things and classes."*
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

All of the terms defined in the Internal Revenue Code are identified as "Definitions". For instance, 26 U.S.C. §7701, the definitions section of the Internal Revenue Code, begins with the following:

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

Therefore, the words described there are "definitions" of each word. A definition must describe EVERYTHING that is included or it is simply not a definition. This is confirmed by the Rules of Statutory Construction and Interpretation, which state:

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

The purpose of providing a definition is to REPLACE, not ENLARGE the ordinary meaning of a term used in everyday English:

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

"The United States Supreme Court cannot supply what Congress has studiously omitted in a statute."
[Federal Trade Com. v. Simplicity Pattern Co., 360 U.S. 55, p. 55, 475042/56451 (1959)]

10.2 "Terms" are limiting and not expansive

Owners and officers of companies across America issue millions of fraudulent affidavits each year about people that they have made payments to. You know these affidavits as "**W-2s",** "**1099's**" and "**K-1's".** These affidavits have furnished sworn testimony to the government that the payments were **"wages as defined in 26 USC 3401(a), and 3121(a)"** or payments made in the course of their **"trade or business". It is interesting that those that fill out these affidavits have never** even looked at how **26 U.S.C. §§3401(a) and 3121(a)** define "**wages",** or at the **specialized legal meaning** of **"trade or business"!**

Thanks to these lies, the vast majority of workers across America that these affidavits were created for will be victimized by paying huge amounts of their wealth for taxes that they simply do not owe.

However, under our legal system the **responsibility for knowing the legal effect** of tax related instruments **rests on the one signing** that instrument. **Not on the tax agency,** even when that agency **has an incentive to mislead.**

> *"Whatever the form in which the government functions, anyone entering into an arrangement with the government takes the risk of having ascertained that he who purports to act for the government stays within the bounds of his authority."*
> *[Federal Crop Ins. Corp v. Merrill, 332 U.S. 380 (1947)]*

> *"Persons dealing with the government are charged with knowing government statues and regulations, and they assume the risk that government agents may exceed their authority and provide misinformation."*
> *[Lavin v. Marsh, 644 F.2d. 1378 (1981)]*

Another contributing factor to the average American loosing vast amounts of their wealth is a general lack of knowledge of the custom legal meanings that are assigned to certain key words known and identified as **"TERMS"** within our nations laws and particularly within taxing statues and regulations.

State legislatures and Congress use the word "TERM" in statutes that conveys meanings that are totally different when the word "TERM" is not used. "WORD" and "TERM" are entirely two separate and distinct conveyances of ideas. When "TERM" is used in a definition it signifies a special meaning to the words that follow the word "TERM". For it is the man's idea, who is the proponent of the idea, as to just what meaning that "TERM" has in his mind. It can be totally different than what you are used to when using that word. It is really not that hard to grasp the differences. First let's set the foundation for understandable use in this discussion.

The following is from **Black's Law 4th Ed.**

> ***"TERM"*** *- A word or phrase; an expression; particularly one which possesses a fixed or known meaning in some science, art, or profession.*
> *[Black's Law Dictionary, Fourth Edition, p. 1639]*

> ***"WORDS"*** *- Symbols indicating idea and subject to contraction and expansion to meet the idea sought to be expressed. ...As used in law, this term generally signifies the technical terms and phrases appropriate to particular instruments, or aptly fitted to the expression of a particular intention in legal instruments. See the subtitles following.*
> *[Black's Law Dictionary, Fourth Edition, p. 1779]*

> ***"WORDS OF ART"*** *- The vocabulary or terminology of a particular art or science, and especially those expressions which are idiomatic or peculiar to it. See Cargill v. Thompson, 57, Minn. 534, 59 N.W. 638.*
> *[Black's Law Dictionary, Fourth Edition, p. 1779]*

The following is from Webster's American Dictionary of the English Language, 1828. "TERM" consists of two columns of definitions so only the pertinent parts are cited here. However, read the entire definition in that book so you will see we are not picking and choosing to make our point like the government does.

> ***"TERM"***

1. A limit; a bound or boundary; the extremity of anything; that which limits it's extent.

7. In grammar , a word or expression; that which fixes or determines ideas.

14. In contracts, terms *in the plural, are conditions; propositions stated or promises made, which when assented to or accepted by another, settle the contract and bind the parties.*
[Webster's American Dictionary of the English Language, 1828]

"WORD"

1. An articulate or vocal sound or a combination of articulate or vocal sounds , uttered by the human voice, and by custom expressing an idea or ideas ; a single component of human speech or language.
[Webster's American Dictionary of the English Language, 1828]

Notice that "TERM" is defined in both dictionaries quite similarly. "Term" pinpoints the idea exactly and must be specific and cannot be expanded or contracted upon. However, "WORD" is quite differently defined in the standard dictionary of common words we all use.

When we converse at home, in the street or in a store we use common words which are not "TERMS". "Term" is limiting to a specific idea. "Word" definitions can be expanded or contracted upon whereas "TERM" definitions cannot.. Now refer to Black's Law from above and note that they used "TERM" and not "word" in the definition of "WORD". Most people would never catch this until shown. This is how closely you have to read in order to fully understand the definitions of what is being presented.

"I don't know what you mean by 'glory'," Alice said.
Humpty Dumpty smiled contemptuously. "Of course you don't, till I tell you.
I meant 'there's a nice knock-down argument for you!"
"But 'glory' doesn't mean 'a nice knock-down argument'," Alice objected.
"When I use a word," Humpty Dumpty said, in rather a scornful tone,
"it means just what I choose it to mean, neither more nor less."
"The question is," said Alice,
"whether you can make words mean so many different things."
"The question is," said Humpty Dumpty,
"which is to be master, that's all."

What is white to you is black to them in the words employed in their "WORDS OF ART." This is never more evident than in the definitions in the Internal Revenue Code (IRC). Please note that every definition in Code section (7701) starts with "The TERM ...". Once you understand "TERM" is a clue to "WORDS OF ART." employed after the word "TERM", you have half the battle won. That means throw out the standard dictionary definition we are all use to using and use what the writers of the law, mean. They never say "The WORD" when they start the definition in any 7701 (a) part, now do they? Or for that matter anywhere else in the code definitions. It has to be the word "TERM" in order to make the definitions conform to constitutional and jurisdictional requirements/limitations as well as allow the words to work to confuse or fool you into believing they mean something entirely different from what the law writers intended.

Let's take a look at 26 U.S.C. §7701(a)(28) OTHER TERMS:

26 U.S.C. §7701(a)(28) OTHER TERMS:

Any "TERM" used in this subtitle with respect to the application of, or in connection with, the provisions of ***any other subtitle of this title shall have the same meaning as in such provisions.***

In the case of the "TERM" and the not "WORD", "Resident", it is legally defined in United States v. Penelope, 27 Fed. Case No. 16024, which states:

"But admitting that the ***common acceptance*** *of the word and its* ***legal technical*** *meaning are* ***different,*** *we must presume that Congress meant to adopt* ***the latter.",*** *page 487.*

"But this is a highly penal act, and must have ***strict construction. . .*** *.The question seems to be whether they inserted 'resident' without the legal meaning generally affixed to it. If they have omitted to express their meaning, we cannot supply it.", page 489.*
[United States v. Penelope, 27 Fed. Case No. 16024]

No one asks what words or their definitions are in the Internal Revenue code or for that matter any of our codes of law because they blindly use the common accepted use of the words that we all use in every day speech. This gives the Internal Revenue Service (IRS) an advantage because the idea written is specifically technical as stated by the court in the case above. In addition, the IRS moves by presumption, against the man by calling him a "person" that is defined in the code at Section 7343, but the man assumes he is a person in common words and not the "TERMS" of the law writer.

The words "including" and "includes" when used within the code, means that the definition is restricted to the specific definition given to the "TERM" and cannot be expanded upon. The use of the word "TERM" quite clearly states it is not a word that can be expanded or contracted upon when reading the definition in the above dictionaries. Therefore, "including" cannot be expanded upon to mean anything more than what is described by the "TERM." In either case the use of "WORD" can be expanded or contracted while the use of "TERM" cannot.

As example, in 26 U.S.C. §7701(a)(10), "State" is a "TERM" and not a "WORD". Therefore, it is defined exactly like the words employed and no more. "State" is exactly what is written, and that is the **District of Columbia.** It does **NOT** include any of the **states of the Union** as it cannot be expanded upon as it is not a "WORD", it's a "TERM" that is already defined as the idea of the law writer. In 26 U.S.C. §7701(a)(9) the "United States" is only the district of Columbia and only the states that the "United States" owns such as those described in 26 U.S.C. §3121(e)(1) and (2). Notice the word "TERM" in the beginning of the definition to alert you that it has a technically specific closed meaning to the words employed in that section. Therefore, in all the entire code, that meaning stands unless altered specifically.

To find out where that might be let's look at 26 U.S.C. §6103(b)(5). Note that after the word "TERM" is used it includes the word "MEANS". Nowhere else but one or two other places in the code will you see the word "MEANS" used. When "MEANS" is used it is informing you that for that section and that section only the definition is expanded upon to include all the states in the Union as it names them as such. You do not see this definition in 26 U.S.C. §3121(e)(1) and (2). Because to do so, as stated in §7701 (a) it would be "manifestly incompatible with the intent thereof."

Don't be so fast to look at what the word "MEANS" means. Just like President Clinton argued the word which was a "TERM" "is." Yes, words are used to harm you by the IRS and the government. The 1828 American Dictionary reveals why they had to use "MEANS" in Section 6103. The pertinent words of study are in bold.

The following is from **Webster's American Dictionary of the English Language, 1828.**

> *"**MEAN**" - Pronounced* ment *. To mean, to intend, **also to relate,** to recite or tell, also to* moan, *to lament; **The primary sense is to set or thrust forward, to reach, stretch or extend.***
> *[Webster's American Dictionary of the English Language, 1828]*

The use of the word "MEANS" to describe a different meaning to the United States and State is required to make an expansion to the "TERM" "United States and State" as found throughout the IRC. Please note the use of the word "include" is not found in section 6103, whereas in all the other definitions "include" appears.

"Includes" is argued back and forth that it can be expansive. Well this proves "includes" is restrictive when the word "TERM" is employed, which in itself has a special "technical" restrictive meaning. We all know that "includes " is defined as to shut up, confine within and so forth. Now let's read 26 U.S.C. §3121(e)(1) and (2) and we find:

> *26 U.S.C. §3121(e)(1) and (2)*
>
> *The "TERM" "State" "includes" and "The "TERM" "United States" when used in a "Geographical" sense. "Geographical" is yet another "WORD OF ART".*

Let's now look at 26 U.S.C. §7701(a)(4) and (5), to see how easy it is to be misled by the use of "TERMS" rather than "WORDS" to define "domestic" and "foreign". Remember, the entire set of federal laws, Titles 1 through 50 are designed to apply strictly to the United States as defined within the Constitution and NOT to the States in Union. Federal laws apply to government employees and persons residing within the "Geographical" boundary of the "United States" as defined and not to the people in the States of the Union. Federal laws apply to "Domestic corporations" and NOT to the "Foreign corporations" located in the States of the Union. Can the state of Texas, Ohio, Florida or California statutes apply to any other State or to the United States? The answer is obviously not. Can the laws of the United States apply to one living in the foreign states just mentioned? Obviously not when the Case of John Barron was decided and since then all the other cases

where the Supreme Court stated the Bill of Rights was never to extend to the people in the states as it was a Bill for ONLY the United States. That means none of the laws or Constitution FOR the United States apply to the people of the States.

Have fun in reading the use of the words of art following the use of the word "TERM" in any definition in the Internal Revenue Code or for that matter any other Title of the United States code. You might want to see how your state uses the word "TERM" in its Codes. This is one reason why most people living in America today could never begin to understand that the words in law have an entirely different meaning than what they think they mean. Always remember, there is a common use of a word and there is a "legal technical" use of the word as stated by the Supreme Court case discussed above.

Even at the back of the U.S. Supreme Court Rule book at Rule 47 it says:

> *Supreme Court Rule 47*
>
> *"The "TERM" "State Court," when used in these Rules, includes the District of Columbia Court of Appeals and the Supreme Court of the Commonwealth of Puerto Rico. See 28 U.S.C. Sections 1257 and 1258. References in these Rules to the common law and Statutes of a State include the common law and statues of the District of Columbia and the Commonwealth of Puerto Rico."*

This is a prime example of how careful you have to read because "includes" is restrictive to the "TERMS" defined which is the "State Court". Had this been properly designed to mean in the very beginning the state courts of each of the 50 states it would say so but it does not. It would have to be written this way if the word "TERM" was not used. A "State Court" when used in these Rules means the 50 State courts of the Union and includes the District of Columbia Court of Appeals and the Supreme Court of the Commonwealth of Puerto Rico. The original wording is stating that besides the U.S. Supreme Court and the other two are the State Court. It does not say or mean any of the 50 State of The Union courts are included.

The IRS carefully mixes "TERMS" with words of common meaning within many of the questions they ask in the forms that are used to report and collect federal Income taxes. As example, you are incline to state that you are not a "Nonresident Alien" because they will ask, "don't you live and work in the United States?" To which you will answer "yes," not realizing the IRS agent or form was using the "legal technical" definition of "United States" yet applied it in common everyday language. In addition, you are tricked into thinking you have a federal Income Tax liability because of your misunderstanding of the "legal technical" definitions in the IRC for "employer", "employee", "wages" and "trade or Business", just to name a few.

EXAMPLE APPLICATION: FEDERAL REGULATIONS

Let's follow the Code of Federal Regulations trail to see where it leads. Please remember, a Nonresident Alien is an American, not a United States citizen, not in the state of the forum, per the "TERM" as defined within the Code. The following applies to self-employment income in 26 CFR, but applies equally to an American working for a corporation not chartered by Congress.

> *26 CFR §1.1402(b)-1(a) In general:*
>
> *Except for the exclusions in paragraph (b) and (c) of this section and the exception in paragraph (d) of this section, the "TERM" "self employment income" means the net earnings from self employment derived by an individual during a taxable year.*

Let's see what paragraph (d) says:

> *26 CFR §1.1402(b)-3(d) Nonresident Alien:*
>
> ***A "nonresident alien" individual never has self-employment income.** While a "nonresident alien" individual who derives income from a "trade or business" carried on within the United States, Puerto Rico, the Virgin Islands, Guam, or American Samoa .. may be subject to the applicable income tax provisions on such income, such "nonresident alien" individual will not be subject to the tax on self employment income, since any net earnings which he may have from self employment do not constitute self-employment income. For the purposes of the tax on self-employment income, an individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands or for taxable years beginning after 1960, of Guam or American Samoa **is not** considered to be a "nonresident alien individual."*

We like "never", don't you? So just what is this "TERM" "trade or business"? Again look at the context of the statute because the "TERM" "nonresident" is used in its geographical/citizen form.

> *26 CFR §1.1402(c)-1 Trade or Business:*
>
> *In order for an individual to have net earnings from self employment, **he must carry on a "trade or business",** either as an individual or as a member of a partnership. Except for the exclusions discussed in §§ 1.1402 (c) (2) to 1.1402 (c) (7), inclusive, the "TERM" "trade or business", for the purpose for the tax on self-employment income, **shall have the same meaning as when used in section 162."***

Several have said that, if you are a United States citizen, you can use 26 U.S.C. §911 to avoid the tax because you are in one of the foreign 50 states, making foreign earned income which then cannot be taxed. That is true, you are in a foreign state, that part is correct, however, there is still a lack of understanding of the "TERM" **"United States citizen".**

The "U.S. citizen" has to be a **"qualified individual"** 26 U.S.C. §911(d)(1), who has a **"tax home"** identified in 26 U.S.C. §911(d)(3), which is an individual listed in 26 U.S.C. §162(a)(2). That individual has earned income as defined in 26 U.S.C. §911(d)(2)(A) & (B), and is a **CONGRESSMAN.** It also talks about 'State Legislators' at 26 U.S.C. §162(h)(1) through (4), which, when the "TERM" "State" is understood, it **means the District of Columbia and the 5 federal States only.** Now go back and read 26 U.S.C. §864 again.

> *26 U.S.C. §911(d) DEFINITIONS AND SPECIAL RULES:*
>
> *For purposes of this section...*
>
> *(3) TAX HOME,-- The "TERM" "tax home" means, with respect to any individual, such individual's home for purposes of section 162 (a) (2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.*

So now they have established that to be a United States resident in the United States, you must have a tax home as relates to traveling expenses in 26 U.S.C. §162(a)(2). So we go to §162(a)(2) to see if you are the taxpayer for "internal revenue." Remember what "United States" we are talking about.

> *26 U.S.C. §162. TRADE OR BUSINESS EXPENSES:*
>
> *(a) In general.-- There shall be allowed as a deduction all the ordinary expenses paid or incurred during the taxable year in carrying on any trade or business, including...*
>
> *(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;*
>
> *(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and*
>
> *(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. [that was one sentence]*
>
> *For purposes of the preceding sentence, the place of residence of a **MEMBER OF CONGRESS** (including any Delegate and Resident Commissioner) within the State, congressional district, or possession which he represents in Congress shall be considered his home for amounts expended by such Members within each taxable year for living expenses will not be deductible for income tax purposes in excess of $3,000.*

There you have it folks; are you a Congressman who is effectively connected with a "trade or business", getting money from the public treasury, which is a privilege to which you are to return a portion of internal revenue? You thought they were talking about you in the beginning, right? Now read 26 CFR §1.1402(c)2(b) Meaning of Public Office, as this relates to, 26 U.S.C. §7701(a)(26), which defines "Trade or Business" as "the performance of the functions of a "public office."

Bear this in mind when you look at 26 U.S.C. §911 infra. When comparing what is stated in the Social Security Handbook of 1982, Chapter 11 § 1101, pg. 176, it really helps to understand the private capacity of the laws that apply only to the United States and its agents, to wit:

*A "TRADE OR BUSINESS" for Social Security purposes means the same as when used in **section 162 of the Internal Revenue Code of 1954,** relating to income taxes.*
[Social Security Handbook of 1982, Chapter 11 § 1101, pg. 176]

First let's see to whom the exclusions apply at 1.1402 above. It applies to government employees and foreign government employees. Who are these foreign government employees? Why, they are the foreign sister state governments of the Union employees while performing in the United States as defined in 26 U.S.C. §3121(e)(2). Have you ever heard of the **Public Salary Tax Act?** There is no mention of Congress in these 1.1402 sections, so we have to go back to section 162 where they are mentioned. Are you a member of Congress to be taxed?

Remember the resident of the islands, in 26 CFR §1.1402(b)(3)(d), (remember he is not), cannot be considered "nonresident alien" because he resides within the "TERM" "United States". Could you, an American who is not a United States citizen, and not residing within D.C. or any of the five (5) federal States be a resident of those areas? NO, then you are nonresident and alien to those areas, while those residing in the islands are residents and are not alien since they live on "United States" soil. Now the "TERM" "nonresident" takes on a geographical meaning, doesn't it?

Why isn't a resident of the islands considered "nonresident" of the U.S.? Here is a case from U.S. tax court that should help prove to those who are still skeptical because Johnson was a resident of the Island.

Johnson v. Quinn, 87-1 U.S.T.C. 9362

"As stated in Revenue Ruling 73-315, 1973-2 C.B. 225, The United States and Virgin Islands are separate and distinct taxing jurisdictions although their income tax laws arise from an identical statute applicable to each".

*"In construing the Internal Revenue Code of 1954, as in effect in the Virgin Islands, in addition to other modifications **when necessary and appropriate,** it will be necessary in **some sections** of the law to **substitute** the words "Virgin Islands" for the words "United States" in order to give the law proper effect in those islands". Emphasis theirs.*

The court also stated;

*"Petitioners, having been taxed by **A STATE OF THE UNITED STATES,** contend that they are entitled to a foreign tax credit for taxes paid to that **STATE**."*

Now you have a better understanding of why the petitioners did not understand that they were in a "**state"** belonging to that entity called the "U.S.", they thought they were in a foreign country.

You already have a taste for how colorable the "law" is in using the "TERM" "nonresident". Here is another example how **colorable** the tax law is from a now repealed statute. The Virgin Islands can be called a "foreign country" when Congress so declares:

26 U.S.C. §3455. Other definitions and special rules:

(a) DEFINITIONS.

For purposes of this subchapter

(4) FOREIGN GOVERNMENT.

The term "foreign government" means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

[Only Congress could come up with this utterly stupid definition to deceive the functional illiterate. This is like defining a quart of milk by saying, a quart of milk is a quart of milk or part of a quart of milk. They haven't defined milk or a quart, have they?]

Continuing:

26 U.S.C. §2014 Possessions of United States Deemed a FOREIGN COUNTRY

(g) States

For purposes of the credits authorized by this section, each possession of the United States shall be deemed to be a FOREIGN COUNTRY."

The rest of 26 CFR §1.1402(b) doesn't apply unless you decide to work for a government corporation or are "effectively connected with" a "trade or business" within the “United States”. If you do, then follow 26 CFR §1.6012(b)-1. Read this very carefully and compare it with;

26 CFR §1.6015(i)-1. Nonresident Alien Individuals.

(a) Exception from requirement from making a declaration. No declaration of estimated income is required to be made under section 6015 (a) and § 1.6015 (a)-1 by a nonresident alien individual unless (1) Such individual has wages, as defined in section 3401 (a), and the regulations thereunder, upon which tax is required to be withheld under section 3402.

See how nicely the government slides around to the “TERM” "wages?" **Only Congressmen, government employees, and “public officers” earn “wages” as legally defined.**

Now let's to go back to **wages in 26 CFR §1.1402(b)(3).** As a **nonresident alien working for government you do have wages,** just follow 26 CFR § 1.1402 (c) -3 (a) & (d). This is where the 1040NR comes in and possibly the IRS Form 8233 for withholding. Now wait a minute, you say you don't work for government but a corporation chartered by a State of the Union? OK, then go to:

26 CFR §31.3401(a)(6)-1(b). Remuneration for services performed outside the “United States”.

Remuneration paid to a nonresident alien individual... for services performed outside the “United States” is exempted from “wages” and hence is NOT SUBJECT TO WITHHOLDING.

This is NOT the unless category found in 26 CFR §1.6015(i)-1(1), is it? See how they slide around to “wages” like for self-employed. Isn't this in agreement with:

26 U.S.C. §3401(a) Wages.

*For purposes of this chapter, the “TERM” "wages" means all remuneration... for services performed by an “employee” for his “employer”, including the cash value of all remuneration... paid in any medium other than cash; **except** that such “TERM” SHALL NOT INCLUDE remuneration paid--(6) **for such services performed by a “nonresident alien individual”,** as may be designated by regulations prescribed by the Secretary;.*

The State chartered company may refer you to 26 CFR §31.3402(f)(6)(1), but this is wrong for you are not the “employee” described in 26 U.S.C. §3401(c), working for the “employer” defined in 26 U.S.C. §3401(d), which corresponds to 26 CFR §1.1402(c)3(d) and (c)2(b). This indicates you are not the "person" described in 26 U.S.C. §7343, because you are not to be treated as a resident working for the foreign (State), governments instrumentality within the “United States”. Therefore, the company is not defined as a government employer.

How does the following read in your mind The Federal Register, Tuesday, September 7, 1943 Page 12267 section 404.104 EMPLOYEE:

"... x ... The “TERM” “employee” ... SPECIFICALLY INCLUDES officers and employees whether elected or appointed, of the “United States”, a state ["Federal states" remember] Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing."

Note the use of the word "TERM" and it has a specific restricted meaning.

You are not in a "Covered group" which requires a Social Security Number. This is stated in 42 U.S.C. Chapter 7, Section 418(b)(5), as you would be performing a “Proprietary function”, which is described in CFR Title 26 pages 6001 and 6002 section 29.22 (b)-1, as being exempt from gross income, which is, "under the Constitution, not taxable by the Federal government."

Alas, people are destroyed by words when they presume them to mean what they think they mean only to maybe never find out they don't mean what they convey in common words.

10.3 The "Reasonable Notice" approach

One of the chief purposes of all law is to give what is called "reasonable notice" to all the parties affected by it of the specific conduct that is either required or prohibited of them. This was described by the U.S. Supreme Court and lower courts as follows:

> *"Law fails to meet requirements of due process clause if it is so vague and standardless that it leaves public uncertain as to conduct it prohibits or leaves judges and jurors free to decide, without any legally fixed standards, what is prohibited and what is not in each particular case."*
> *[Giaccio v. State of Pennsylvania, 382 U.S. 399; 86 S.Ct. 518 (1966)]*

> *"**The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> *[U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952)]*

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

When a government employee introduces something to be included within a definition that does not specifically appear as either a thing or within class of things *specifically* pointed out *somewhere* the statutes themselves, then all we have to do is:

Ask them where that thing they wish to include is mentioned in the law. Tell them you are a reasonable person who reads the law and who has not found any evidence within the law upon which to base a belief that the thing that they wish to "include" is specifically included within a definition found in the Internal Revenue Code itself. Tell them that you as a Christian are prohibited from making "presumptions" by the Bible in Numbers 15:30 (NKJV) and that your beliefs can therefore only be based upon what is actually written in the law itself, which is the only legally admissible evidence of a liability.
Tell them that unless they can point to a statute *somewhere* that includes the thing or class of things that they want to include, then they are depriving you of "reasonable notice" of the conduct that is expected of you and thereby operating in presumptuously and in "bad faith".

Quote the U.S. Supreme Court, which said that failure to satisfy the requirement for "reasonable notice" deprives the government of a judicially enforceable remedy for whatever conduct they expect from you:

> ***"It never has been doubted by this court, or any other, so far as we know, that notice and hearing are preliminary steps essential to the passing of an enforceable judgment,"***
> *[Powell v. Alabama, 287 U.S. 45 (1932)]*

> *"Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness [reasonable notice] of the relevant circumstances and likely consequences."*
> *[Brady v. U.S., 397 U.S. 742, at 749, 90 S.Ct. 1463 at 11469 (1970)]*

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

If you would like to know more about this interesting subject, you can find an exhaustive analysis in the following free memorandum of law:

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

10.4 The "Academic Approach"

The prior two approaches for fighting the "includes" argument are simple and elegant and point to the fraud, which is the making of false or unsubstantiated "presumptions" that are not substantiated by any kind of admissible evidence. We emphasize that any presumption you make that cannot be substantiated by admissible evidence constitutes the equivalent of "religious faith", and that the First Amendment prohibits the government from establishing or disestablishing a religion. This is why all conclusive presumptions which adversely affect constitutional rights are unconstitutional and impermissible in any legal proceeding:

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

The techniques in previous sections are therefore reserved for clerks and employees who don't read the law because they are simple and uninformed. However, you may encounter more informed opponents such as IRS or DOJ attorneys who are more educated about the law. For them, the "Academic Approach" is best. The Academic Approach involves asking them a series of detailed legal questions, hopefully in the context of legal discovery such as a deposition or interrogatory or request for admission. We have crafted detailed legal questions you can use that are found starting in section 12 and following of this document.

10.5 Example Rebuttal: Definition of "Trade or business"

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

The most prevalent and notorious abuse of the word "includes" in order to unlawfully expand federal jurisdiction is the definition of the phrase "trade or business" found in 26 U.S.C. §7701(a)(26). The remainder of this section will apply all of the techniques suggested in this chapter in order to provide an example argument in favor a ***limiting*** definition of this word which you can use successfully in court to defend your determination that you are a "nontaxpayer" not subject to the Internal Revenue Code.

The word "trade or business" is defined as follows:

> *TITLE 26 > Subtitle F > CHAPTER 79 > § 7701*
> *§ 7701. Definitions*
>
> *(a)(26) "trade or business"*
>
> *"The term 'trade or business' includes the performance of the functions of a public office."*

The word "includes" as used above is then defined as follows:

> *TITLE 26 > Subtitle F > CHAPTER 79 > § 7701*
> *§ 7701. Definitions*
>
> *(c) Includes and including*
>
> *The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.*

Based on the above:

1. The term “trade or business” means “the functions of a public office” as clearly shown in 26 U.S.C. §7701(a)(26).
2. The word “includes” is used in the definition of “trade or business”.
3. The word “includes” can have one of ***two*** possible meanings: 1. Is limited to the things shown in the definition; or 2. In addition to (enlargement) something found ***elsewhere*** within the I.R.C.

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

4. An electronic search of the entire 9,500 pages and 7 Million plus words of the Internal Revenue Code reveals that ***nowhere*** is anything ***expressly added*** to the above definition of “trade or business”. Therefore, the above definition is ***all inclusive*** and limiting. The definition below detracts from or ***limits*** the definition within a specific subportion of the I.R.C., but does not ***expand*** it:

> *TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > Sec. 864*
> *Sec. 864. - Definitions and special rules*
>
> *(b) Trade or business within the United States*
>
> *For purposes of this part [part I], part II, and chapter 3, the term "trade or business within the United States" includes the performance of personal services within the United States at any time within the taxable year, but does not include -*
>
> *(1) Performance of personal services for foreign employer*
>
> *The performance of personal services -*
>
> *(A) for a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, or*
>
> *(B) for an office or place of business maintained in a foreign country or in a possession of the United States by an individual who is a citizen or resident of the United States or by a domestic partnership or a domestic corporation, by a nonresident alien individual temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year and whose compensation for such services does not exceed in the aggregate $3,000.*

5. Because the term “trade or business” is defined within the I.R.C., that definition ***supersedes*** rather than ***enlarges*** the ordinary or common definition of the term.

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

6. If the term “includes” means “in addition to”, anything ***else*** that might be added to the statutory definition found in 26 U.S.C. §7701(a)(26) ***must*** expressly appear ***somewhere*** in the I.R.C., although not necessarily within the above statute.

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

7. Things or classes of things *not* specifically mentioned in the I.R.C. *as a whole* within the definition of "trade or business" are excluded by implication:

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

> *"As a rule, `**a definition which declares what a term "means" . . . excludes any meaning that is not stated**'"*
> *[Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]*

8. If the statutes as a whole do not prescribe EVERYTHING that is "included" within the meaning of the word defined, then:
   8.1. The law is "void for vagueness". . . .and
   8.2. The terms appearing in 26 U.S.C. §7701 are NOT "definitions" of anything. All "definitions" implicitly exclude non-essential things.

> ***definition**. A description of a thing by its properties; an explanation of the meaning of a word or term. **The process of stating the exact meaning of a word by means of other words. Such a description of the thing defined, including all essential elements and excluding all nonessential**, as to distinguish it from all other things and classes."*
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

9. The regulations implementing 26 U.S.C. §7701 cannot lawfully *expand* the definition to include any *thing* or *class of things* not expressly defined in the Internal Revenue Code. Therefore, it is pointless to examine the regulations for additional meanings that might be added to the definition of the phrase "trade or business":

> *"[i]t is axiomatic that an administrative agency's power to promulgate legislative regulations **is limited to the authority delegated by Congress [in United States law/statutes]**"*
> *[Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208 (1988)]*

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

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

10. Any judge who points to 26 U.S.C. §7701(c) and alleges that this statute implies that the definition of "trade or business" *enlarges* rather than *supersedes* the common definition is engaging in an "statutory presumption" that is unconstitutional.

> ***"This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.** For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*

> **'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'**

> *If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

11. Any judge who imputes anything to be included that is not expressly described somewhere within the I.R.C. bears the burden of proof of providing a statute that specifically includes the meanings he claims are included or else he is:
    11.1. Legislating from the bench, which he cannot lawfully do:

> ***"Our power begins after theirs ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither. The disputed rights beneath constitutions already made are to be governed by precedents, by sound legal principles, by positive legislation, clear contracts, moral duties, and fixed rules; they are per se questions of law, and are well suited to the education and habits of the bench."***
> *[Luther v. Borden, 48 U.S. 1 (1849)]*

    11.2. Turning our "society of law" into a "society of men".

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

    11.3. Engaging in prejudicial presumption that violates due process of law and renders the court's ruling void.

> *(1) [8:4993]* ***Conclusive presumptions affecting protected interests:*** *A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline *(1973) 412 U.S. 441, 449, 93 S.Ct 2230, 2235;* Cleveland Bd. of Ed. v. LaFleur *(1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*
> *[Rutter Group Practice Guide-Federal Civil Trials and Evidence, paragraph 8:4993, page 8K-34]*
>
> ---
>
> *"A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878)."*
> *[World-Wide Volkwagen Corp. v. Woodson, 444 U.S. 286 (1980)]*

If the opposing counsel or the Court disagree with the above determination, they are demanded to address the following irreconcilable conflicts of law created when meanings not appearing in the I.R.C. are added to the definition of the word "trade or business" found in 26 U.S.C. §7701(a)(26).

1. What statute within the I.R.C. expands the definition of "trade or business" found in 26 U.S.C. §7701(a)(26) to "expressly include" the meanings the judge specifically wishes to include and thereby gives "fair notice" to one of what is expected?

> ***"Vague laws may trap those who desire to be law-abiding by not providing fair notice of what is prohibited.***
> *Papachristou v. City of Jacksonville, 405 U.S. 156, 162 (1972); United States v. Harriss, 347 U.S. 612, 617 (1954). They also provide opportunity for arbitrary and discriminatory enforcement since those [416 U.S. 924 , 925] who apply the laws have no clear and explicit standards to guide them. Coates v. Cincinnati, 402 U.S. 611, 614 (1971); Shuttlesworth v. Birmingham, 382 U.S. 87 , 90-91, 15 L.Ed.2d. 176 (1965).*
> *[Karlan v. City of Cincinatti, 416 U.S. 924 (1974)]*

2. How can law satisfy the mandatory requirement to give "reasonable notice" to the public of what it expects if it does not ***expressly indicate*** all things or classes of things that are "included"?

> *As we said in Grayned v. City of Rockford,* 408 U.S. 104, 108 *(1972):*
>
> *"It is a basic principle of due process that an enactment [435 U.S. 982 , 986] is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application." (Footnotes omitted.)*
>
> See al Papachristou v. City of *Jacksonville,* 405 U.S. 156 (1972); Cline v. Frink Dairy Co., 274 U.S. 445, 47 S. Ct. 681 (1927); Connally v. General Construction Co., 269 U.S. 385 (1926).
> *[Sewell v. Georgia, 435 U.S. 982 (1978)]*

3. How can the judge interpret 26 U.S.C. §7701(c) as giving him a license to include anything he wants to include without:
   3.1. Engaging in unconstitutional presumption.

> ***"It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions."***
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

   3.2. Creating the equivalent of a "statutory presumption", which the U.S. Supreme Court said was unconstitutional.

> ***This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.*** *For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*

> **'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'**

> *If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

   3.3. Depriving one of equal protection of the law and the *equal* right to "presume" that everything but what appears in the statute is excluded.
4. How can law be "the definition and limitation of power" if any of the terms used within it are either undefined or are a product of subjective interpretation?

> *"Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

5. How can a judge add meanings to a definition that appear nowhere within the I.R.C. without violating the separation of powers doctrine by "legislating from the bench"? See:

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

6. How can the I.R.C. as a "delegation of authority" to the federal government satisfy the mandatory requirements of the Ninth and Tenth Amendments, which reserves all unenumerated powers to the states and the people if the terms it uses may be expanded to include *any meaning* that either a judge or a prosecuting attorney wishes to include?
7. How can the judge arbitrarily decide that things not expressly appearing in the I.R.C. are included without violating the prohibition of the Constitution against the exercise of "arbitrary power"?

> *'When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, **we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.**' The first official action of this nation declared the foundation of government in these words: 'We hold these truths to be self-evident, [165 U.S. 150, 160] that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.' While such declaration of principles may not have the force of organic law, or be made the basis of judicial decision as to the limits of right and duty, and while in all cases reference must be had to the organic law of the nation for such limits, yet the latter is but the body and the letter of which the former is the thought and the spirit, and it is always safe to read the letter of the constitution in the spirit of the Declaration of Independence. **No duty rests more imperatively upon the courts than the enforcement of those constitutional provisions intended to secure that equality of rights which is the foundation of free government.**"*
> *[Gulf, C. & S. F. R. Co. v. Ellis, 165 U.S. 150 (1897)]*

8. Isn't it slavery to allow any man or group of men to decide what is included?

> *"But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts Bill of Rights, the government of the commonwealth 'may be a government of laws and not of men.' For, the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another [including a judge], seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself."*
> *[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]*

9. If a judge or a prosecutor expands the meaning of a word or phrase in the law for the purpose of gaining jurisdiction which the law does not provide, then pursuant to footnote 16 of U.S. v. Will, 449 U.S. 200 (1980), does the judge or prosecuting attorney commit treason against the constitution?

> *"In another, not unrelated context, Chief Justice Marshall's exposition in Cohens v. Virginia, 6 Wheat, 264 (1821), could well have been the explanation of the Rule of Necessity; he wrote that a court "must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the constitution. We cannot pass it by, because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them." Id., at 404.*
> *[U.S. v. Will, 449 U.S. 200 (1980)]*

Based on the preceding quote by Justice Marshall, one can only conclude that any judge who practices such deceptions and flagrant misuse of the law in creating presumptions which do in fact exist and in order to manufacture jurisdiction which does not exist has in fact committed "treason against the constitution".

11 Rebutted Propaganda Relating to abuse of word "includes"

11.1 Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax

The Congressional Research Service Report 97-59A is often cited especially by Congressmen as a means to justify the illegal and presumptuous operations of the IRS. You can find a rebutted version of this report at:

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

Starting on the next page, you can find item 20 of that report entitled "What is Meant by the Term 'Includes'".

20 What is Meant by the Term "Includes"?

The use of the term "includes" in IRC definitions has given rise to at least two questions concerning the application of the tax code. Does the "State" include the fifty states? Does "employee" include anyone who does not work for the Government or is an officer of a corporation?

The IRC defines "State" to include the District of Columbia.[28] There are those who argue that this means that the term "State" only includes the District of Columbia and not the fifty States of the Union. The IRC defines "employee" to include officers, employees or elected officials of the United States, a State, or any political subdivision thereof, or the District of Columbia or an officer of a corporation.[29] There are those who argue that this means that only those in one of these categories are "employees" for purposes of the income tax.

Each of these arguments displays a basic misunderstanding of the meaning of the term "includes." The term "includes" is inclusive not exclusive. The IRC provides that the terms "includes" and "including" when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.[30]

The courts have not given any credence to arguments that "includes" implicitly excludes. They have been consistently found to be without merit and frivolous.[31]

First of all, you will note that ALL of the cases cited are federal circuit court cases, and NOT supreme Court cases. You will probably never see a U.S. supreme Court opinion on this, because it would destroy the income tax system and expose the fraud perpetuated on us all those years since the passage of the 16th Amendment in 1913. It would be political suicide for every Chief Justice that ruled unfavorably against the government on it. The supreme Court is primarily a political court and they are much too smart to get tangled up in this scandalous mess. Consequently, it will undoubtedly deny any and every writ of certiorari (appeal) brought before it that deals with this issue. This reinforces our contention that there is a "judicial conspiracy to protect the income tax" and that it exists primarily at the circuit court level. The reason Subtitle A federal (excise) income taxes can be illegally imposed on American citizens is because of the denial of due process maintained both by the IRS and the federal courts.
The word "includes" is used in several places in the Internal Revenue Code, but it is found most often in the definitions of key words that circumscribe the jurisdiction of the Internal Revenue Code as follows:

- Definition of the term "State" found in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110
- Definition of the term "United States" found in 26 U.S.C. §7701(a)(9)
- Definition of the term "employee" found in 26 U.S.C. §3401(c) and 26 CFR §31.3401(c)-1 Employee
- Definition of the term "person" found in 26 CFR §301.6671-1 (which governs who is liable for penalties under Internal Revenue Code)

You must first realize that this flagrant abuse of our language and of the meaning of the word "includes" is part of an obfuscation approach designed by Congress and the IRS to illegally expand the jurisdiction of the federal government to assess I.R.C. Subtitle A income taxes beyond their clear constitutional limits and beyond federal property or territories and into the 50 sovereign states. It violates common sense, and every other use of the word "includes" in the English language we ever learned throughout our lifetime. It also violates the government's own definition of the word "includes" published in the Federal Register, :

> ***Treasury Definition 3980****, Vol. 29, January-December, 1927, pgs. 64 and 65 defines the words includes and including as:*
>
> *"(1) To comprise, comprehend, or embrace…(2) To enclose within; contain; confine…But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited,*

[28] IRC §7701(a)(10).

[29] IRC §3401(c).

[30] IRC §7701(c).

[31] See, *U.S. v. Rice*, 659 F.2d. 524,528 (5th Cir, 1981), U.S. *v. Latham*, 754 F.2d. 813, 815 *(1st* Cir. 1986), *U.S. v. Ward*, 833 F.2d. 1538 (11th Cir. 1987), and *U.S. v. Steiner*, 963 F.2d. 381 (9th Cir. 1992).

preceding general language…The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."

The IRS definition of the word includes also violates several court rulings. Below is just one example:

> *"**Includes** is a word of **limitation**. Where a **general term** in Statute is followed by the word, '**including**' the primary import of the specific words following the quoted words is to indicate restriction rather than enlargement. **Powers ex re. Covon v. Charron R.I.**, 135 A. 2nd 829, 832*
> *[Definitions-Words and Phrases pages 156-156, Words and Phrases under '**limitations**'."]*

As you may know, Black's Law Dictionary is the Bible of legal definitions. Let's see what it says about the definition of "includes":

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

In other words, according to Black's, when INCLUDE is used it expands to take in all of the items stipulated or listed, but is then limited to them.

Such an obfuscating approach by the Congress and the IRS is a clear assault on our liberty, as it undermines our very language and our means of comprehending precisely and exclusively not only what the law *requires* of us, but what it *doesn't require*. Here is what Confucius said about this kind of conspiracy:

> "When words lose their meaning, people will lose their liberty." Confucius, circa 500 B.C.

Such an approach also amounts to a clear violation of due process under the Fourth and Sixth Amendment , in that it causes the law to *not* specifically define what is or is not required of the citizen:

> *"A statute which either forbids or requires the doing of an act in terms so vague that men and women of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law."*
> *[Connally v. General Construction Co., 269 U.S. 385 (1926)]*

The above finding gives rise to a doctrine known as the "void for vagueness doctrine", that was advocated by the U.S. supreme Court. This doctrine is deeply rooted in our right to due process (under the Fifth Amendment) and our right to know the nature and cause of any criminal accusation (under the Sixth Amendment). The latter right goes far beyond the contents of any criminal indictment. The right to know the nature and cause of any accusation starts with the statute which a defendant is accused of violating. A statute must be sufficiently specific and unambiguous in all its terms, in order to define and give adequate notice of the kind of conduct which it forbids.

> ***"The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> [*U.S. v. De Cadena*, 105 F.Supp. 202, 204 (1952), emphasis added]

If it fails to indicate with reasonable certainty just what conduct the legislature prohibits, a statute is necessarily void for uncertainty, or "void for vagueness" as the doctrine is called. In the *De Cadena* case, the U.S. District Court listed a number of excellent authorities for the *origin* of this doctrine (see *Lanzetta v. New Jersey*, 306 U.S. 451) and for the *development* of the doctrine (see *Screws v. United States*, 325 U.S. 91, *Williams v. United States*, 341 U.S. 97, and *Jordan v. De George*, 341 U.S. 223). Any prosecution which is based upon a vague statute or a vague (or expansive) definition must fail, together with the statute itself. A vague criminal statute is unconstitutional for violating the 5th and 6th Amendments.

The abuse of the word "includes" or its expansive use also violates the rules of statutory construction, which are founded on the Fourth Amendment right of due process of law:

> *"In view of other settled rules of statutory construction, which teach that a law is presumed, in the absence of clear expression to the contrary, to operate prospectively; that,* ***if doubt exists as to the construction of a taxing statute, the doubt should be resolved in favor of the taxpayer****..."*
> *[Hassett v. Welch., 303 U.S. 303, pp. 314 - 315, 82 L.Ed. 858. (1938) (emphasis added)]*

> *This fact only underscores our duty to refrain from reading a phrase into the statute when Congress has left it out. " '[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that* ***Congress acts intentionally and purposely in the disparate inclusion or exclusion****.' "* ***Russello v. United States****, 464 U.S. 16, 23, 78 L.Ed.2d. 17, 104 S.Ct. 296 (1983) (citation omitted).*
> *[Keene Corp. v. United States,508 U.S. 200, 124 L.Ed.2d. 118, 113 S.Ct. 1993. (emphasis added)]*

If the act doesn't specifically identify what is forbidden or "included" and we have to rely ***not*** *on the law, but some judge or lawyer or politician or a guess to describe what is "included", then our due process has been violated and our government has thereby instantly been transformed from a government of laws into a government of men.* And in this case, it only took the abuse of one word in the English language to do so!

The concept of "**due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious** and that the means selected shall have a reasonable and substantial relation to the object being sought. [Black's Law Dictionary, Sixth Edition, p. 500, under the definition of "due process of law"]

If the word "includes" can be lawlessly abused to mean other things not specifically identified or at least classified in the statute, then the whole of the Internal Revenue Code essentially defines NOTHING, because it all hinges on jurisdiction, and 26 U.S.C. §7701(a)(9), which establishes jurisdiction uses the word "includes". How can the code define ANYTHING that uses the word "includes", based on the definition of "definition" found below?:

> ***definition****: A description of a thing by its properties; an explanation of the meaning of a word or term.* ***The process of stating the exact meaning of a word by means of other words****. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes."*
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

Is the word "United States" defined exactly, if "includes" can mean that you can add **whatever you arbitrarily want** to be "included" in the definition?

> *26 U.S.C. §7701*
>
> *(a) Definitions*
> *(9) United States*
> *The term "United States" when used in a geographical sense* ***includes*** *only the States and the District of Columbia.*

This clear and flagrant disregard for due process of law strikes at the heart of our liberty and freedom and we ought to boycott the income tax based on this clever ruse by the shysters in Congress and the IRS who invented it. If the word "includes" is used in its expansive sense, we have, in effect, subjected ourselves to the arbitrary whims of however the currently elected politician or judge wants to describe what is "included". That leads to massive chaos, injustice, and unconstitutional behavior by our courts and our elected representatives, which is exactly what we have today. To put it bluntly, such deceptive actions are treasonable. The abuse also promotes unnecessary litigation over the meaning of the tax laws, to the benefit of lawyers, lawmakers, and the American Bar Association, which is a clear conflict of interest. Here is what the U.S. Supreme Court says about the confusion created by the expansive use of the word "includes":

> *In the interpretation of statutes levying taxes, it is THE ESTABLISHED RULE NOT TO EXTEND their provisions, by implication, BEYOND THE CLEAR IMPORT OF THE LANGUAGE USED, OR TO*

ENLARGE their operations SO AS TO EMBRACE MATTERS NOT SPECIFICALLY POINTED OUT". [Gould v. Gould, 245 U.S. 151]

If this ridiculous interpretation of the word "includes" is allowed to stand by the courts and this assault on our liberty by Congress is allowed to continue, then below is the essence of what the government has done to us, represented as a satirical press release by the U.S. supreme Court:

NEW RULES FOR LAW

SMUCKWAP NEWSSERVICE, Washington: The Supreme Court ruled today that judges can do whatever the hell they want. In a landmark case, Black-Robed Lawyers vs. Everyone Else, the justices handed down their inestimable judgment that since lawyers in general and judges in particular are such fine examples of humanity, not to mention smart enough to get through law school, judges can do whatever they please.

"The Rule of Law has ended," proclaimed Supreme Court Justice Arrogant B. Astard, "and the Rule of Judges begins!"

Turning their shiny black backs on the rest of America, the justices decided to toss out two hundred years of Constitutional law and indeed, to rid themselves completely of having to heed the Constitution.

"The law is what we say it is," said Justice Whiney I. Diot. "It has been this way for some time now, but with Black-Robed Lawyers vs. Everyone Else, we are coming out of our judicial closet. No more arguments will be allowed from anyone, and we don't want to hear any more of your complaining about your rights. In fact, any mention of so-called rights will guarantee you 100 years, hard labor."

Justice K. Rupt Assin concurred in his opinion that "judicial oligarchy has now fully come into its place in American history and will be fully enforced by an iron rule of law, and remember, law is whatever we say it is."

The Center for People Who Want to Leave This Country Because It Is Beginning to Look Too Much Like Nazi Germany analyzed the justices' decision.

"Judges now legally can put anyone in prison for any reason they want, for as long as they want," states the analysis. "Judges can also put jurors in prison for 'obstructing justice' and for anything else, including not handing the judge whatever money they may have on them at the time. Jurors who don't behave exactly as the judge desired have been persecuted in the past, but "now they can receive prison terms much longer than their own lifespan added to the lifespan(s) of the defendant(s) in any trial.

The report also mentioned the justices' decision that anyone who says anything disagreeable in their courtroom can be immediately arrested and jailed, their property confiscated, and their spouses and children taken as "wards" of the court under the justices own personal pleasure ... or... supervision.

The concept of separation of powers was addressed in the Center's report on the decision.

"There is no separation of powers," it reads, "when not only all the justices are lawyers, so are all Congressmen and the President, his wife, his cabinet, the entire Department of Justice, most lobbyists and almost everyone else in Washington, D.C."

*When questioned about what effect the decision would have on all Americans, the spokesman for the Center said, "I can't be certain. I suspect that emigration rather than immigration will become a major concern. Those Americans who are lawyers will be fine, for the most part. No one will ever again show up for jury duty. But if we thought we had an overcrowded prison problem before, we're in for a *major* shock!"*

11.2 Definition of the term "United States"

Freedom advocates who have read the Internal Revenue Code for themselves learn that definitions are the most frequently abused means of illegally extending federal jurisdiction. They usually start by examining the definition of "United States" in the Internal Revenue Code, which follows:

TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]
Sec. 7701. - Definitions

(a) Definitions

(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.

Freedom researchers will point to the word "State" above and say that that the "State" being referred to is only the District of Columbia. They will then cite 4 U.S.C. §110(d) as backup:

TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES
CHAPTER 4 - THE STATES
Sec. 110. Same; definitions

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

Based on the above, they will apply the Rules of Statutory Construction summarized earlier in section 8.8.29 and conclude:

"The term 'United States' within Subtitle A of the Internal Revenue Code means the District of Columbia and the territories and possessions of the United States and excludes states of the Union. States of the Union are excluded because nowhere in Subtitle A are they explicitly INCLUDED in the definition of 'State'".

The freedom researcher will then use the above inference in his communications and audits with the IRS to establish that the IRS has no jurisdiction to collect a tax against them. When IRS responds to this sort of conclusion, they will respond to correspondence and communication with the following facts foremost in their minds:

1. They cannot reveal the existence of the Trustee position or federal agency/fiduciary duty held by those who participate in the Social Security Program described earlier in section 9.3, because this would:
   1.1. Expose the main source of their jurisdiction.
   1.2. Encourage people to leave the program en masse.
2. They cannot cite any section in Subtitle A of the Internal Revenue Code which specifically identifies states of the Union as being included in the definition of "State" found in 26 U.S.C. §7701(a)(10) because no such definition is found anywhere in the I.R.C.
3. They want to keep the illegal plunder flowing or they will jeopardize the fiscal integrity of the government, so they must win the argument without disclosing the truth or educating the audience about the illegal nature of their enforcement activities.
4. Those working in the I.R.S. Collection Branch receive commissions based on the amount of "inventory" they recover (STEAL) from the targets for their illegal activities. Therefore, there is a financial DISincentive for them to avoid a lawful and legal implementation of the I.R.C. in their dealings with the public. This creates a conflict of interest in violation of 18 U.S.C. §208. When this conflict of interest is pointed out to the Treasury Inspector General for Tax Administration, who is the legal oversight for the I.R.S., the complaint is largely ignored. See: http://www.ustreas.gov/tigta/
5. The amount of collection correspondence received by the IRS in connection with enforcement activities which are illegal and unwarranted is massive, and numbers in the millions of pieces every year. The entire staff of the IRS is only about 70,000 people and they are simply not equipped to respond to such correspondence.

Therefore, when the IRS responds to an inquiry about the meaning of "United States" in the Internal Revenue Code, they usually do so in one of the following ways:

1. They will ignore any written correspondence sent in by victims of its illegal activities and "ASSUME" or "PRESUME" that the victim agreed with their determination.
2. They will label the correspondence as "frivolous" and themselves cite irrelevant case law from federal courts that have no jurisdiction whatsoever over the party who sent the correspondence. The legal ignorance of most Americans usually will shut them up at this point, because they don't know enough to respond appropriately to such a misinformed, malfeasant, and malicious response. If the victim then tries to employ a tax professional to correct the malfeasance and malice of the IRS in this case, the tax professional will pillage them financially worse than the IRS.

This has the affect of training Americans to "just shut up" about the abuses, because fighting them is more costly and time consuming than just paying the illegal extortion.

3. They will abuse the "includes" within the definition of "Untied States" as follows:

> *The definition of "United States" found in 26 U.S.C. §7701(a)(9) uses the word "includes". 26 U.S.C. §7701(c) states that any definition using such a word "shall not be deemed to exclude other things otherwise within the meaning of the term defined". The other things they are talking about are states of the Union.*

By the above tactic, the IRS will create a false presumption and they will do so boldly and forcefully, and argue vociferously with those who challenge such a presumption. Unless you have done your homework by reading this pamphlet and know how to respond, then you will fall victim to this abuse and organized racketeering. The proper response to such a statement by the IRS is the following:

1. The rules of statutory construction say that "includes" is a term of "limitation" and not "enlargement" in the cases where it is used.
2. The reason for providing a definition in the Internal Revenue Code is to supersede and replace the common meaning of the term, no to add to it.
3. You are attempting to use 26 U.S.C. §7701(c) to create a statutory presumption, which the Supreme Court has said many times is illegal in the case of those who are protected by the Bill of Rights, which includes me. [You may wish to quote some of the Supreme Court's statements about statutory presumptions found earlier in section 9.5.6].
4. If you believe that I am not protected by the Bill of Rights so that statutory presumptions can be used against me, please so state and then present me with legal evidence proving that I am not covered by the Bill of Rights.
5. If you believe that I am an officer, employee, agent, or contractor of the federal government who therefore is an officer or employee of a privileged federal corporation who may not assert Constitutional rights, then please so state now and provide legally admissible evidence of same. If you do not do so now, you are estopped in the future from controverting this issue.

The above will usually shut them up. The only usual comeback you will hear is that you are "frivolous". We must remember, however, how the word "frivolous" is defined:

> ***"Frivolous.*** *Of little weight or importance. A pleading is "frivolous" when it is clearly insufficient on its face and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the opponent. A claim or defense is frivolous if a proponent can present no rational argument based upon the evidence or law in support of that claim or defense. Liebowitz v. Aimexco Inc., Col.App., 701 P.2d. 140, 142. Frivolous pleadings may be amended to proper form or ordered stricken under federal and state rules of civil procedure."*
> *[Black's Law Dictionary, Sixth Edition, p. 668]*

In reality, the IRS is the one acting frivolously as defined above, because they can offer you nothing but presumption, verbal abuse, and threats in response to a rational inquiry. You therefore might want to tape record your conversation with them over this issue if on the phone, or if in writing, using certified mail so that their abuse becomes "actionable" fraud for which you have legal standing to sue.

> *"**Actionable**. That for which an action will lie, furnishing legal ground for an action. See Cause of action; Justiciable controversy."*
> *[Black's Law Dictionary, Sixth Edition, p. 29]*

You may also ask them for a copy of their delegation order, which should say that they have judicial authority to interpret law. We'll give you a hint: No one in the IRS has such authority, including the Chief Counsel.

We cover the subject of the meaning of the term "United States" in section 5.2.7 of our *Great IRS Hoax* book. If you would like more ammunition to use against misbehaving IRS agents on the above issue, then you may wish to cite the following U.S. Supreme Court rulings form that section:

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

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

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

You might then want to ask the IRS employee in the context of the Carter v. Carter ruling above whether he thinks the Internal Revenue Code qualifies as "legislation". There is only one way he can answer the question, and after he answers, you win. If he says you can't cite the Supreme Court, then read to him the quote below from his own Internal Revenue Manual on the subject, which says:

> *IRM 4.10.7.2.9.8 (05/14/99): Importance of Court Decisions*
>
> *1. "Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *2. Certain court cases lend more weight to a position than others. **A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*

No public servant or IRS employee has the power to essentially compel a "false presumption", which essentially amounts to an act of deception.

> *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
> *[New York Times v. Sullivan, 376 U.S. 254 (1964)*

The IRS or the government also are prohibited by the Constitution from persecuting or terrorizing those who expose any false presumption or government deception:

> *"In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press [and this religious ministry] was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. **The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people** and sending them off to distant lands to die of foreign fevers and foreign shot and shell. In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of government that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do."*
> *[New York Times Co. v. United States, 403 U.S. 713 (1970)]*

Any government or official that uses legal sophistry to coerce a citizen, to establish jurisdiction it does not have, is a terrorist government. Any government official who engages in such coercion also is engaging effectively in "false commercial speech" and his activities should be enjoined by the federal courts. It is the paramount duty of our justice system to prevent such coercion, in fact.

11.3 Otto Skinner's Misinterpretation of the word "includes"

A famous tax freedom personality is Otto Skinner, who sells books about tax law to the general public on his website at:

http://ottoskinner.com

We have bought and read several of his books. Below is a direct quote from Otto Skinners book *The Biggest Tax Loophole of All*, on page 198 relating to the definition of the word "include":

> *Flawed argument #10*

The individual claims that the term "includes" as used in definitions in the Code is a word of limitations. From this erroneous conclusion, the individual claims that the does not live in a "State" as that term is defined in the Code, and/or does not live in the "United States" as that term is defined in the Code, and then concludes that the federal government does not have authority to collect taxes from any place other than the federal territories and Washington, DC. He further concludes that he is a nonresident alien. Also from the misinterpretation of the term "includes", the individual will claim that he is not an "employee" as that term is defined in the Code.

... Probably more individuals have suffered defeat in the courtroom because of this misinterpretation than any other mistake made.

Otto then takes you to the U.S. Code annotated for the above section and quotes from it a part that refers to *Fidelity Trust Co. v. CIR*, 1944 (3rd circuit), which says:

". . .includes shall not be deemed to exclude other things otherwise within the meaning of the term defined."

The ***Biggest Loophole of All*** then goes on to say that "includes" was not intended to limit, just eliminate doubt. Otto then shows you other quotes from law library books that say "includes" is to considered a word of enlargement. He talks about 26 U.S.C. §7701(c) also. The explanation is very thorough and he takes you up to page 206 in his book (9 pages) to explain what he believes is a flaw in the conclusions about "includes" in this pamphlet.

Some readers have contacted us about the above, told us we are wrong, and even demanded that we rebut Otto's analysis above. None of these people have been courageous enough to try to reconcile Otto's analysis with the very pointed questions in the next chapter, however. The reason is that they simply can't without contradicting themselves. The reason they will contradict themselves is that Otto's views do not take into account any of the following important concepts explained elsewhere in this document, such as:

1. The U.S. Supreme Court's prohibition against statutory presumptions documented earlier in section 9.5.6. If 26 U.S.C. §7701(c) were interpreted as Otto recommends, then we would end up having to make a statutory presumption about what is "included" in the definition, which would represent a violation of due process of law and make the Internal Revenue Code unconstitutional. Since we must assume that it is constitutional, then we cannot conclude that it compels presumption.
2. The rules of statutory construction. Otto never even mentions the "expressio unius est exclusio alterius" rule of statutory construction, which by the way is consistent with the U.S. Supreme Court's condemnation of statutory presumptions.
3. Exactly how the word "includes" may be used as a term of enlargement, as explained earlier in section 9.8. When it is used as a term of enlargement, Black's Law dictionary says it means "in addition to". The rules of statutory construction, however, still require that the law as a whole MUST include everything that is included or added to the definition.
4. The IRS's use of the word in their own Internal Revenue Manual, which frequently uses the word "includes but not limited to". See section 9.9 et seq. If includes really were a universally used as a term of enlargement in the I.R.C., then the same would be true in the I.R.M. as well, rendering the need to use "but not limited to" unnecessary.
5. The application of the "innocent until proven guilty rule" to the situation of being a "taxpayer". See 9.1 earlier.
6. The void for vagueness doctrine described starting earlier in section 9.5. A law which is vague and does not give due notice to all those affected by it exactly what is required and which does not avoid compelling presumption in the reader violates the void for vagueness doctrine described by the U.S. Supreme Court.

In fact, the analysis in this pamphlet is the ***only*** one that is completely consistent with all of the above concepts. Ottos' conclusions are either inconsistent with the above concepts and diverge from them, or do not take them into account at all, leaving the reader in a state of "cognitive dissonance". To those who question our approach and support Otto's views, we simply ask them to reconcile his views with the above in a way that is completely consistent with the above. If there is dissonance, it's usually because the proponent is wrong. Our materials do not have that dissonance.

Returning to the *Fidelity* case above, the court was correct in its application of the law to the proper subject, but not in its conclusions about the meaning of the word "includes". It was incorrect because it did not take into account the affect the result of participating in Social Security on the jurisdiction of the Federal Government. Yes, the Internal Revenue Code Subtitle A has jurisdiction against people in the states of the Union, but not because of the meaning of the word includes. Those who have a Social Security Number are in possession of public property. Public property may only be used by public employees on official duty. Therefore, those who use such a number are federal employees, agents, and contractors.

The federal government has always had jurisdiction over its employees, agents, and contractors, no matter where they physically are domiciled. The government has this jurisdiction not because of the meaning of the word "includes", but because it couldn't do its important job WITHTOUT such jurisdiction. This concept is thoroughly analyzed in our pamphlet below:

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

Otto has to try to enlarge the word "includes" as his way to try to explain the fundamental nature of the Social Security Program as a form of federal employment. His books clearly reveal that he doesn't understand this important concept, so he fudges a little with "includes" as a way to account for the rulings of the federal courts on this issue. He also doesn't understand the precedence of law and what a reasonable belief about tax liability is. Therefore, he treats federal court rulings below the Supreme Court as authoritative, when in fact they are not. This is explained in the pamphlet below:

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

Our approach to "includes" is the only one we have found that takes all the above into account and is STILL completely consistent with it all. If you still disagree with our approach, then why don't you rebut the questions at the end using Otto Skinner's approach and see if you can do so without contradicting and thereby discrediting yourself. We'll give you a hint: It can't be done.

11.4 U.S. Attorney Argument About "Includes" and "Person"

Another false argument about the abuse of the word "includes" can be found in the case of *United States v. Christopher Hansen*, Case No. 05cv0921, filed in the United States District Court in San Diego, California. In that case, Hansen was being prosecuted for abusive tax shelters and cited in his defense the definition of "person" found in 26 U.S.C. §6671(b).

> *TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671*
> *§ 6671. Rules for application of assessable penalties*
>
> *(b) Person defined*
>
> *The term "person", as used in this subchapter, **includes** an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.*

You will note that:

1. The above definition uses the word "includes".
2. There is no provision within any other part of the Internal Revenue Code that is indicated above which would add anything to the above definition. Therefore, that definition is all-inclusive for the purposes of tax shelters and every IRS penalty.
3. A natural person not employed with the federal government as a "public officer" is excluded from the above definition. A private person does not have the fiduciary duty indicated by the phrase "who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs". Therefore, such a private person is *not* the subject of this statute. Below is an example:

> *Internal Revenue Manual*
> *Section 5.14.10.2 (09-30-2004)*
> *Payroll Deduction Agreements*
>
> *2. **Private employers, states, and political subdivisions are not required to enter into payroll deduction agreements**. Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.*
> *[http://www.irs.gov/irm/part5/ch14s10.html]*

4. The above definition *supersedes* rather than *enlarges* the definition of "person" found in 26 U.S.C. §7701(a)(1). If the above definition expanded that found in 26 U.S.C. §7701(a)(1), it would have to say so. This is a result of the

Constitutional requirement for "reasonable notice" of the behavior expected from the law. See the following for an exhaustive analysis of why "reasonable notice" is an essential requirement of due process of law:

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

5. 26 U.S.C. §7701(c) defines the word "includes" in a way that "appears" to create unconstitutional statutory presumptions. However, statutory presumptions are ILLEGAL and therefore this result cannot be presumed or inferred by any federal court in the context of any person protected by the Bill of Rights. See:
http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm

U.S. Attorneys just love to try to "stretch" definitions beyond their clear meaning by:

1. Violating the rules of statutory construction and interpretation documented earlier in section 7.6 and following.
2. Abusing case law and subterfuge to create statutory presumptions. For instance, they will cite cases relating to franchisees called "taxpayers" against those who are "nontaxpayers" not subject to the franchise agreement and refuse to justify why they are relevant. This technique in effect "encrypts" and hides their presumptions in case law that many opponents omit to read and are thereby injured unlawfully and prejudicially.
3. Citing 26 U.S.C. §7701(c) as a way to invoke a "statutory presumption" that allows them to unlawfully expand the meaning of any word statutorily defined using the word "includes" to arbitrarily add anything they want it to mean. In so doing, they are usually exploiting the legal ignorance of the average American to their injury.

The U.S. Supreme Court has said that the above unscrupulous and devious tactics are violation of due process of law:

> *"The power to create presumptions is not a means of escape from constitutional restrictions,"*
> *[Bailey v. Alabama, 219 U.S. 219, 239]*
>
> ---
>
> *That the terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties is a well- recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law; and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. International Harvester Co. v. Kentucky, 234 U.S. 216, 221 , 34 S.Ct. 853; Collins v. Kentucky, 234 U.S. 634, 638 , 34 S.Ct. 924*
>
> *[...]*
>
> *... The dividing line between what is lawful and unlawful cannot be left to conjecture. The citizen cannot be held to answer charges based upon penal statutes whose mandates are so uncertain that they will reasonably admit of different constructions. A criminal statute cannot rest upon an uncertain foundation. The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue. Penal statutes prohibiting the doing of certain things, and providing a punishment for their violation, should not admit of such a double meaning that the citizen may act upon the one conception of its requirements and the courts upon another.'*
> *[Connally v. General Construction Co., 269 U.S. 385 (1926)]*

When Hansen submitted a Petition to Dismiss which invoked the definition of "person" found in 26 U.S.C. §6671(b) as a way to prove that he doesn't fit the description, below is how the U.S. Attorney in the Hansen case attempted to counter this argument. Note that he tries to abuse presumption to stretch the definition of the word:

> *Hansen's interpretation of §6671 (b) is too narrow. As the Ninth Circuit has stated when ruling on that section's range, "[the term "person" does include officer and employee, but certainly does not exclude all others. Its scope is illustrated rather than qualified by the specified examples." United States v. Graham, 309 F.2d. 210,212 (9th Cir. 1962). Code §7701(a)(l) provides a general definition of "person" to be used throughout the Code, and states that '"person' shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation." Hansen is an individual. Code §6671(b)'s definition of person expands, rather than restricts, the general definition and thus includes Hansen. See Pacific Nat'l Ins. Co. v. United States, 422 F.2d. 26, 30 (9th Cir. 1970); Bailey Vaught Robertson & Co. v. United States, 828 F.Supp. 442,444 (N.D. Tex. 1993) ("Section 6671(b) simply expands the definition of person in §7701(a)(l) to 'include' certain other individuals."); United States v. Vaccarella, 735 F.Supp. 1421, 143 1 (S.D. Ind. 1990) ; see also State of Ohio v. Helvering, 292 U.S. 360,370 (1934) (construing broadly a statutory definition using the phrase "means and includes"); Chickasaw Nation v. United States, 208 F.3d 871 (10th Cir. 2000)*
> *[Reply Brief of Defendant Shoemaker, Docket #40, p. 2, Case No. 05cv0921]*

The above statement suffers from the following defects:

1. It cites case law irrelevant to a person who is not a "taxpayer" subject to the I.R.C. The terms of the I.R.C. cannot be applied against a person not subject to it. The Courts may also not confer the status of "taxpayer" upon a person who declares their status as otherwise:

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

2. In the cases cited by the U.S. Attorney, the parties were "U.S. persons" and "citizens" and doubt about the jurisdiction of taxing statutes was at issue. The U.S. Supreme Court indicated that all such doubts must be resolved in favor of the citizen rather than the government, and yet they were not. The cites he provided violated this requirement of stare decisis and therefore violated due process and were void judgments.

> *"Keeping in mind the well-settled rule that **the citizen is exempt from taxation unless the same is imposed by clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be resolved in favor of those upon whom the tax is sought to be laid**."*
> *[Spreckels Sugar Refining Co. v. McClain, 192 U.S. 297 (1904)]*

3. The statement violates the IRS' Internal Revenue Manual, which says that the service is not bound to observe any ruling below the U.S. Supreme Court. Nearly all of the cases cited by the U.S. Attorney were from courts below the U.S. Supreme Court. If the IRS isn't obligated to observe such cases, then neither is the Defendant, because this is a requirement of "equal protection of the law":

> *Internal Revenue Manual*
> *Section 4.10.7.2.9.8 (05/14/99)*
>
> *1 "Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*
>
> *2. Certain court cases lend more weight to a position than others. **A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.***
>
> ***3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."*

4. The statute itself, 26 U.S.C. §6671(b), did not specifically state that it *expands* rather than *supersedes* the definition of "person" found in 26 U.S.C. §7701(a)(1). Therefore:
   4.1. The statute fails to give "reasonable notice" of the conduct expected of the defendant, and therefore is void for vagueness. This is covered in the following memorandum of law:

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

   4.2. Any assertion that the statute *does* expand 26 U.S.C. §7701(a)(1) rather than supersede it is a "presumption" and not a fact, because it cannot be sustained from reading the statute itself. Such a statutory "presumption" cannot lawfully be invoked to injure the Constitutional rights of the party against whom it is asserted.

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

The above tactic is thoroughly rebutted in the following memorandum of law:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017
http://sedm.org/Forms/FormIndex.htm

5. The U.S. Attorney invoked a "presumption" that prejudices constitutional rights and therefore is impermissible, by alleging that the Defendant was an "Individual". The Internal Revenue Code nowhere defines the term "individual". He cannot say that the Defendant is an "individual" without at least a definition. The only definition of "individual", in fact, is found in 5 U.S.C. §552a(a)(2), and this is the same provision which protects "taxpayer" records maintained by the IRS:

> *TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES*
> *5 U.S.C. §552a Records maintained on individuals*
>
> *(a) Definitions.— For purposes of this section—*
>
> *(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;*

The reader will note that:

5.1. The above "individual" is a government employee or public officer, and not a private individual and that federal government has no jurisdiction over private individuals;

5.2. The defendant in the above case is neither a "citizen" under 8 U.S.C. §1401 or a "resident" under 26 U.S.C. §7701(b)(1)(A), but instead is a "nonresident alien" who does not satisfy the definition of "individual" above. Therefore, he cannot be an "individual". All "individuals" under Subtitle A of the Internal Revenue Code are "public officers" who are also "U.S. Persons" with a domicile in the District of Columbia, as required by 26 U.S.C. §7701(a)(30) and 4 U.S.C. §72. This is covered in the article below:
http://famguardian.org/Subjects/Taxes/Articles/PublicVPrivateEmployment.htm

For all the foregoing reasons, the U.S. Attorney was concocting an elaborate lie or disinformation to disguise the fact that he had no lawful jurisdiction to pursue an injunction under 26 U.S.C. §6700.

12 Resources for further study and rebuttal

If you would like to further investigate the matters discussed in this pamphlet beyond appears here, we refer you to the following FREE resources elsewhere on the Internet:

1. *Statutes and Statutory Construction, Second Edition*, Jabez Sutherland, 1904. The book that most judges use to determine the rules of statutory construction.
   1.1. Volume 1: http://books.google.com/books?id=Jw49AAAAIAAJ&printsec=titlepage
   1.2. Volume 2: http://books.google.com/books?id=4xA9AAAAIAAJ&printsec=titlepage
2. *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017
   http://sedm.org/Forms/FormIndex.htm
3. Cites by Topic: "includes"
   http://famguardian.org/TaxFreedom/CitesByTopic/includes.htm
4. *Family Guardian Forums: Words of Art*
   http://famguardian.org/forums/index.php?s=0fcf93fd62295562eebe7951732e2f88&showforum=30
5. *Lost Horizons Website: "includes"*
   http://www.losthorizons.com/comment/The%20Law%20Means%20What%20It%20Says.pdf
6. *Truth in Taxation Hearing*, Section 9, Ambiguity of Law
   http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009.htm
7. Words and Phrases: "includes"
   http://famguardian.org/TaxFreedom/CitesByTopic/Include-WP.pdf
8. *Great IRS Hoax*, Section 2.8.2: Presumption
   http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm
9. *Statutory Interpretation: General Principles and Recent Trends*, Congressional Research Service:
   http://famguardian.org/PublishedAuthors/Govt/CRS/Statutory%20Interpretation.General.Principles.MARCH.30.2006.CRS97-589.pdf

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

This section contains some questions which are very effective at "shutting up" those who enjoy arguing the "includes" issue in favor of the government. It uses admissible, positive law evidence to prove each point where possible.

The We the People Foundation for Constitutional Education held a formal question and answer session on February 27-28, 2002 at the Washington Marriott in Washington D.C. The Internal Revenue Service and the Department of Justice were formally invited and absolutely refused to attend. Thirteen avenues of inquiry were conducted, one of which involved resolving ambiguity of law. The Ambiguity of Law area included 27 questions that shed much light on the subject of "includes". You can review the questions and all accompanying evidence at:

http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009.htm

The remainder of Section 5 devotes itself to showing most of the We The People questions relating to the ambiguity of law, which is strongly related to the use of the word "includes". These questions have been expanded to address additional information provided elsewhere in this pamphlet.

13.1 Introduction

In the tax code, the IRS formally redefines the word "includes" to effectively mean "includes everything". This deliberate misuse of the word "includes" leads the masses to falsely believe the IRS has jurisdiction over things, places and People that it does not.

This deliberately induced confusion and ambiguity is an act of tyranny against the People and a usurpation of power not authorized the IRS under the Constitution. Without well defined words, the laws are meaningless, null, void, and unenforceable.

13.2 Findings and Conclusions

With the assistance of the following series of questions, we will show that the government has deliberately obfuscated and confused the laws on taxation to create "cognitive dissonance", uncertainty, confusion, and fear of citizens about the exact requirements of the laws on taxation and the precise jurisdiction of the U.S. government. This confusion has been exploited to violate the due process rights of the sovereign People and encourage lawless and abusive violations of due process protections guaranteed by the Fifth and Sixth Amendments to the U.S. Constitution. We will also show that:

- Critical legal terms in the IRS code defy proper definition and interpretation because of the IRS's misuse of the word "includes".
- This deliberate misuse of the word "includes" leads the masses to falsely believe the IRS has jurisdiction over things, places and People it does not.
- This deliberately induced confusion and ambiguity is an act of tyranny against the People and a usurpation of power not authorized the IRS under the Constitution.

Bottom Line: Without well defined words, a law is meaningless and unenforceable. This is a basic principle of due process.

13.3 Section Summary

Acrobat version of this section including questions and evidence (large: 3.83 Mbytes)
http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Section%2009-All.pdf

13.4 Further Study On Our Website:

1. Definition of the term "includes" in the Internal Revenue Code
   http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/DefinitionOfIncludes.htm
2. Great IRS Hoax book:
   2.1. Section 3.11.1: "Words of Art": Lawyer Deception Using Definitions
   2.2. Section 3.11.1.7: "Includes" and "Including" (26 U.S.C. §7701(c))
   2.3. Section 5.6.14: Scams with the Word "includes"

2.4. Section 5.11: Why the "Void for Vagueness Doctrine" Should be Invoked By The Courts to Render the Internal Revenue Code Unconstitutional in Total
2.5. Section 6.4: Treasury/IRS Cover-Ups, Obfuscation and Scandals
2.6. Section 6.6: Judicial Conspiracy to Protect the Income Tax
2.7. Section 6.7: Legal Profession Scandals
2.8. Chapter 6: History of Federal Government Income Tax Fraud, Racketeering, and Extortion in the U.S.A.

13.5 Open-ended questions

1. How can a federal government of limited, delegated powers that is consistent with the requirements of the Ninth and Tenth Amendments be defined using words whose meaning can only be determined by subjective and changing interpretation?

> *"**The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.** **The former will be exercised principally on** external **[to the States] objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected."***
> *[Federalist Paper #45, James Madison]*

2. How can we have a "society of laws and not of men" if the IRS insists that I must rely on *their* interpretation of the meaning of a word instead of what a person with average intelligence would conclude by reading enacted positive law for themselves? Isn't the law supposed to be written so that the man of average intelligence can clearly and unambiguously discern what is required of him without the aid of an "ordained priest" of the civil religion of socialism fostered by the IRS?

> *"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right…"*

> *"The government of the United States is the latter description.* ***The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.****"***
> *[Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803)]*

3. Aren't those who conclude that 26 U.S.C. §7701(c) authorizes the extension of a meaning of a word beyond what is clearly shown in the code itself engaging in a statutory presumption which is unconstitutional if implemented against those who are covered by the Bill of Rights and not exercising any agency of the federal government or of a privileged federal corporation? (see section 9.5.6)

> *This court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment. For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*

> *'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'*
> *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

4. If "includes" is used in its additive/expansive sense and not all things are described in a law that are added, then how can what is added be determined without the use of presumption and without leaving room for the play of "purely arbitrary power". Isn't this a violation of due process?

> *"**When we consider the nature and the theory of our institutions of government, the principles on which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers***

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

13.6 Admissions

These admissions are included for the obstinate readers who just can't believe the preceding analysis. If you fit into one of these categories and you find yourself in receipt of this pamphlet from one of your workers, you are demanded to rebut it within 10 days. Pursuant to Federal Rule of Civil Procedure 8(b)(6), failure to deny within 10 days constitutes an admission to each question. This admission may form the basis for future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully withhold. If you get other than an "Admit" answer, we would certainly like to see the proof of why from enacted law. Please send it to us!

---

1. Admit that when Supreme Court Justices, Judges of the Courts of Appeals, and Presidents of the United States are unable to agree on what a law says, that law is ambiguous.

- Click here to see Kolender v. Lawson, 461 U.S. 352, 103 S.Ct. 1855 (1983)
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.001.htm

YOUR ANSWER (circle one): Admit/Deny

2. Admit that an ambiguous meaning for a word violates the requirement for due process of law by preventing a person of average intelligence from being able to clearly understand what the law requires and does not require of him, thus making it impossible at worst or very difficult at best to know if he is following the law.

YOUR ANSWER (circle one): Admit/Deny

3. Admit that Black's Law Dictionary, Sixth Edition, p. 500, under the definition of "due process of law" states the following:

> *"The concept of "due process of law" as it is embodied in Fifth Amendment demands that a law shall not be unreasonable, arbitrary, or capricious and that the means selected shall have a reasonable and substantial relation to the object being sought."*
> *[Black's Law Dictionary, Sixth Edition, p. 500]*

- Click here for evidence
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.013.pdf

YOUR ANSWER (circle one): Admit/Deny

4. Admit that when a law is ambiguous, it is unconstitutional and cannot be enforced under the "void for vagueness doctrine" because it violates due process protections guaranteed by the Fifth and Sixth Amendments as described by the Supreme Court in the following decisions:

> *Origin of the doctrine (see Lanzetta v. New Jersey, 306 U.S. 451)*

- Click here for Lanzetta v.New Jersey, 306 U.S. 451
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002a.pdf
- *Development* of the doctrine (see *Screws v. United States*, 325 U.S. 91, *Williams v. United States*, 341 U.S. 97, and *Jordan v. De George*, 341 U.S. 223).
- Click here for Screws v. United States, 325 U.S. 91
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002b.pdf
- Click here for Williams v. United States, 341 U.S. 97
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002c.pdf
- Click here for Jordan v. De George, 341 U.S. 223
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.002d.pdf

YOUR ANSWER (circle one): Admit/Deny

5. Admit that the "void for vagueness doctrine" of the Supreme Court was described in *U.S. v. DeCadena* as follows:

> *"**The essential purpose** of the "void for vagueness doctrine" with respect to interpretation of a criminal statute, **is to warn individuals of the criminal consequences of their conduct**. ... Criminal statutes which fail to give due notice that an act has been made criminal before it is done are unconstitutional deprivations of due process of law."*
> *[U.S. v. De Cadena, 105 F.Supp. 202, 204 (1952), emphasis added]*

- Click here for U.S. v. De Cadena, *105 F.Supp. 202, 204 (1952)*
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.003.pdf

YOUR ANSWER (circle one): Admit/Deny

6. Admit that the word "includes" is defined in 26 U.S.C. §7701(c) as follows:

> TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.
> *Sec. 7701. - Definitions*
>
> (c) Includes and including
>
> *The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.*

- Click here for 26 U.S.C. §7701
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.004.pdf

YOUR ANSWER (circle one): Admit/Deny

7. Admit that the word "includes" is defined by the Treasury in the Federal Register as follows:

> *"(1) To comprise, comprehend, or embrace…(2) To enclose within; contain; confine…**But granting that the word 'including' is a term of enlargement, it is clear that it only performs that office by introducing the specific elements constituting the enlargement. It thus, and thus only, enlarges the otherwise more limited, preceding general language**…The word 'including' is obviously used in the sense of its synonyms, comprising; comprehending; embracing."*
> *[Treasury Decision 3980, Vol. 29, January-December, 1927, pgs. 64 and 65, Definition of "includes"]*

- Click here for Treasury Decision 3980
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.005.pdf

YOUR ANSWER (circle one): Admit/Deny

8. Admit that the definition of the word "includes" found in Black's Law Dictionary, Sixth Edition, p. 763 is as follows:

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

included within general words theretofore used. "Including" within statute is interpreted as a word of enlargement or of illustrative application as well as a word of limitation. Premier Products Co. v. Cameron, 240 Or. 123, 400 P.2d. 227, 228."
[Black's Law Dictionary, Sixth Edition, p. 763]

- Click here for evidence
  http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.006.pdf

YOUR ANSWER (circle one): Admit/Deny

9. Admit that the ordinary or common definition of a word appearing within a revenue statute may only be implied when there is no governing statutory definition that might supersede it.

YOUR ANSWER (circle one): Admit/Deny

10. Admit that when a statutory definition of a word is provided, that definition ***supersedes*** and ***replaces***, rather than ***enlarges***, the common or ordinary meaning of the word.

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

YOUR ANSWER (circle one): Admit/Deny

11. Admit that the things or classes of things described in a statutory definition ***exclude*** all things not specifically identified somewhere within the statute or other related sections of the Title:

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

*"As a rule, **`a definition which declares what a term "means" . . . excludes any meaning that is not stated'"***
[Colautti v. Franklin, 439 U.S. 379 (1979), n. 10]

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

YOUR ANSWER (circle one): Admit/Deny

12. Admit that statutory presumptions which prejudice Constitutionally protected rights are unconstitutional.

***his court has held more than once that a statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause of the Fourteenth Amendment.** For example, Bailey v. Alabama, 219 U.S. 219 , 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1 , 5-6, 49 S.Ct. 215.*

'It is apparent,' this court said in the Bailey Case (219 U.S. 239 , 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can

be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'
[Heiner v. Donnan, 285 U.S. 312 (1932)]

YOUR ANSWER (circle one): Admit/Deny

13. Admit that vague laws or statutes which do not AS A WHOLE define ***all*** that is included have the tendency to compel presumption and to "politicize" the courts by forcing judges and juries to become policymakers instead of factfinders and law enforcers.

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

YOUR ANSWER (circle one): Admit/Deny

14. Admit that the Constitution creates a "society of law and not men":

*"****The government of the United States has been emphatically termed a government of laws, and not of men****. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." Marbury v. Madison, 5 U.S. 137; 1 Cranch 137, 2 L.Ed. 60 (1803)*

YOUR ANSWER (circle one): Admit/Deny

15. Admit that when a judge or jury add to the definition of a word that which does not appear somewhere in the statutes, we end up with a "society of men and not law", which is based on the play of "arbitrary power" which the U.S. Supreme Court describes as "the essence of slavery itself":

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

YOUR ANSWER (circle one): Admit/Deny

16. Admit that the Thirteenth Amendment outlaws slavery and involuntary servitude of every sort.

YOUR ANSWER (circle one): Admit/Deny

17. Admit that the following definitions found within the Internal Revenue Code rely upon the meaning of the word "includes" as defined in 26 U.S.C. §7701(c).

- "State" found in 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110. Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007a.pdf
- "United States" found in 26 U.S.C. §7701(a)(9). Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007a.pdf
- "employee" found in 26 U.S.C. §3401(c) and 26 CFR §31.3401(c)-1 Employee.
- Click here for 26 U.S.C. §3401(c) http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007b.pdf
- Click here for 26 CFR. §31.3401(c)-1 http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007c.pdf
- "person" found in 26 CFR §301.6671-1 (which governs who is liable for penalties under Internal Revenue Code). Click here for evidence (WTP Exhibit 421) http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.007d.pdf

YOUR ANSWER (circle one): Admit/Deny

18. Admit that if the meaning of "includes" as used in the definitions in the previous question is "and" or "in addition to" and the statutes AS A WHOLE do not define ***everything*** that is added, then these statutes cannot define any of the words described, based on the definition of the word "definition" found in Black's Law Dictionary, Sixth Edition, p. 423:

> ***definition**: A description of a thing by its properties; an explanation of the meaning of a word or term. **The process of stating the exact meaning of a word by means of other words**. Such a description of the thing defined, including all essential elements and excluding all nonessential, as to distinguish it from all other things and classes."*
> *[Black's Law Dictionary, Sixth Edition, p. 423]*

- Click here for evidence http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/Evidence/Q09.008.pdf

YOUR ANSWER (circle one): Admit/Deny

19. Admit that the Internal Revenue Code, IN TOTAL defines and describes all things which are included in the definition of the words above and that nothing is included in the definitions above which is not explicitly mentioned.

> *That is to say, **the statute, read "as a whole,"** post at 998 [530 U.S. 943] (THOMAS, J., dissenting), **leads the reader to a definition.** That definition does not include the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the contrary.*
> *[Stenberg v. Carhart, 530 U.S. 914 (2000)]*

YOUR ANSWER (circle one): Admit/Deny

20. Admit that the phrase "read as a whole" in the previous section implies looking at all sections of a body of law to discern all things which might be added in order to discern everything that is included, but to assume nothing that is not explicitly mentioned.

YOUR ANSWER (circle one): Admit/Deny

21. Admit that the U.S. Government is one of finite, delegated, enumerated powers.

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

YOUR ANSWER (circle one): Admit/Deny

22. Admit that it is impossible to establish a government of finite, delegated, enumerated powers whose authority is not completely, unambiguously, and fully described in written law that is not open to subjective or arbitrary interpretation or presumption of any kind.

YOUR ANSWER (circle one): Admit/Deny

23. Admit that the definition of "includes" provided in 26 U.S.C. §7701(c) when used in its context of "in addition to" would create a statutory presumption if the Internal Revenue Code IN TOTAL or AS A WHOLE, did not define everything that is included in definitions that rely upon that word.

YOUR ANSWER (circle one): Admit/Deny

24. Admit that Congress does not have the authority under the Constitution to delegate its basic and sole function of writing law or defining the terms in the law to a judge or jury, because the Separation of Powers Doctrine does not allow it to delegate ***any*** of its powers and this doctrine would be unlawfully violated by doing so.

> *"To the contrary,* ***the Constitution divides authority between federal and state governments for the protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power." Coleman v. Thompson, 501 U.S. 722, 759 (1991)*** *(BLACKMUN, J., dissenting). "Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." Gregory v. [505 U.S. 144, 182] Ashcroft, 501 U.S., at 458 . See The Federalist No. 51, p. 323. (C. Rossiter ed. 1961).*
>
> ***Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the "consent" of state officials. An analogy to the separation of powers among the branches of the Federal Government clarifies this point. The Constitution's division of power among the three branches is violated where one branch invades the territory of another, whether or not the encroached-upon branch approves the encroachment.*** *In Buckley v. Valeo, 424 U.S. 1, 118 -137 (1976), for instance, the Court held that Congress had infringed the President's appointment power, despite the fact that the President himself had manifested his consent to the statute that caused the infringement by signing it into law. See National League of Cities v. Usery, 426 U.S., at 842 , n. 12. In INS v. Chadha, 462 U.S. 919, 944 -959 (1983), we held that the legislative veto violated the constitutional requirement that legislation be presented to the President, despite Presidents' approval of hundreds of statutes containing a legislative veto provision. See id., at 944-945. The constitutional authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.*
>
> ***State officials thus cannot consent to the enlargement of the powers of Congress beyond those enumerated in the Constitution. Indeed, the facts of this case raise the possibility that powerful incentives might lead both federal and state officials to view departures from the federal structure to be in their personal interests.***
> *[New York v. United States, 505 U.S. 144 (1992)]*

YOUR ANSWER (circle one): Admit/Deny

25. Admit that no judge has the authority to enlarge or expand a definition to include things not explicitly stated in the statute itself.

YOUR ANSWER (circle one): Admit/Deny

26. Admit that a judge who extends the meaning of a term beyond that clearly stated in the statute is effectively "legislating from the bench" and exceeding his or her Constitutionally delegated authority.

> *"But, allowing the people to make constitutions and unmake them, allowing their representatives to make laws and unmake them, and without our interference as to their principles or policy in doing it, yet, when constitutions and laws are made and put in force by others, then the courts, as empowered by the State or the Union, commence their functions and may decide on the rights which conflicting parties can legally set up under them, rather than about their formation itself.* ***Our power begins after theirs ends. Constitutions and laws precede the judiciary, and we act only under and after them, and as to disputed rights beneath them, rather than disputed points in making them. We speak what is the law, jus dicere, we speak or construe what is the constitution, after both are made, but we make, or revise, or control neither."***
> *[Luther v. Borden, 48 U.S. 1 (1849)]*

27. Admit that when the word "include" is used within a statutory definition in its context of meaning "in addition to", the other things that it ***adds*** to must also be specified in another section of the statutes as well or the statute is void for vagueness.

YOUR ANSWER (circle one): Admit/Deny

28. Admit that when the interpretation of a statute or regulation is unclear or ambiguous, then by the rules of statutory construction, the doubt must be resolved "most strongly against the government and in favor of the citizen" (not "taxpayer", but "citizen") as indicated in the cite from the Supreme Court below:

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

YOUR ANSWER (circle one): Admit/Deny

Affirmation:

I declare under penalty of perjury as required under 26 U.S.C. §6065 that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of both the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not necessarily lower federal courts.

Name (print):_____

Signature:_____

Date:_____

Witness name (print):_____

Witness Signature:_____

Witness Date:_____