

LEGAL REQUIREMENT TO FILE FEDERAL INCOME TAX RETURNS

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1 **1 Introduction**

2 It is quite common for the IRS and state revenue agencies to send out requests to file tax returns. These requests are often
3 ambiguous, in that they:

- 4 1. Purport to define a legal requirement to file but do not identify a liability statute.
- 5 2. Do not identify the statute or law that imposes the alleged tax.
- 6 3. Do not identify the Information Return that prompted the mailing of the request to file.
- 7 4. Do not establish the status of the recipient of the notice sufficiently in order to prove that he is "liable".

8 The notices routinely mailed out therefore are deficient and presumptuous. Worst yet, failure to respond to them may invite
9 alleged penalties, which in most cases are illegally administered. Most Americans have a great deal of difficulty
10 responding to these notices because they have not taken the time to research the legal requirements for complying and in
11 many cases, do not know how to do the legal research necessary to come to the truth of the matter.

12 This memorandum of law will therefore thoroughly analyze the legal requirement for filing federal income tax returns. It
13 will do so by analyzing the I.R.C., federal district and circuit and Supreme Court rulings, and various other resources. We
14 will end the memorandum with a series of questions aimed at a government revenue collection agent which will
15 demonstrate for him that there simply is no requirement for most Americans to file a tax return.

16 If, after reading this memorandum, you would like something even more detailed to give to a state or federal tax collection
17 agency in response to their request to file a tax return, we recommend the following link, which exhaustively explains why
18 you aren't required to file and is formatted in such a way that it also serves the double purpose of a notice of default that
19 you can serve upon the agency claiming you have the liability to file:

[Why I Am Not Legally Liable to File Affidavit, Form #07.103](http://sedm.org/Forms/FormIndex.htm)
<http://sedm.org/Forms/FormIndex.htm>

20 **2 Definition of "taxpayer"**

21 [26 U.S.C. §7701](#)(a)(14) defines a "taxpayer" as follows:

22 [TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)
23 [§ 7701. Definitions](#)

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

26 "The term "taxpayer" means any person subject to any **internal revenue tax.**"

27 A similar definition also appears in 26 U.S.C. §1313:

28 [TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter O > PART II > § 1313](#)
29 [§ 1313. Definitions](#)

30 (b) Taxpayer

31 Notwithstanding section [7701 \(a\)\(14\)](#), the term "taxpayer" means any person subject to a tax under the
32 applicable revenue law.

33 The phrase "internal revenue tax" does not appear in the Internal Revenue Code until Subtitle E: Alcohol, Tobacco and
34 Certain Other Excise Taxes. [26 U.S.C. §5005](#), entitled "Persons Liable for Tax", provides that proprietors of distilled spirit
35 plants are the persons liable for "internal revenue tax". Since we are not an operator of a distilled spirit plant, we are not,
36 by that definition, subject to any "internal revenue tax", and therefore, we are not, by definition, "taxpayers".
37 Furthermore, the term "Revenue Agent" is only defined in the context of Alcohol, Tobacco, and Firearms. To wit:

1 [27 CFR §26.11: Meaning of terms](#)

2 Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury
3 of Puerto Rico.

4 Are you a “Revenue Agent” as legally defined? Note that according to the rules of statutory construction, the above
5 definition SUPERSEDES, not ENLARGES the commonly understood definition of the above term.

6 It gets worse. How can one be “subject to” the Internal Revenue Code without being made “liable” under the code? The
7 only liability statute identified in I.R.C. Subtitle A is defined in the context of withholding agents for nonresident aliens?

8 [TITLE 26 > Subtitle A > CHAPTER 3 > Subchapter B > §1461](#)
9 [§ 1461. Liability for withheld tax](#)

10 *Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and*
11 *is hereby indemnified against the claims and demands of any person for the amount of any payments made in*
12 *accordance with the provisions of this chapter.*

13 Anyone who therefore tries to collect a tax or implicate a liability can only be assuming that you are “withholding agent”
14 for nonresident aliens as defined above. You might want to ask them why they think this is. You also might want to ask
15 them whether there is another section establishing the liability for tax that they are referring to, if it isn’t this one. We have
16 not been able to locate one.

17 **3 “taxpayer”=“resident alien”, federal “public officer”, and/or “trade or business”¹**

18 Persons required to “make returns of income” and who are therefore “taxpayers” are identified in the following references.

19 1. [26 CFR §1.1-1\(a\)](#):

20 *TITLE 26--INTERNAL REVENUE*
21 *CHAPTER 1--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY*
22 *PART 1_INCOME TAXES--Table of Contents*
23 *Sec. 1.1-1 Income tax on individuals.*

24 *(a) General rule.*

25 *(1) **Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or***
26 ***resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a***
27 ***nonresident alien individual.** For optional tax in the case of taxpayers with adjusted gross income of less than*
28 *\$10,000 (less than \$5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed*
29 *is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is*
30 *determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for*
31 *reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before*
32 *January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable*
33 *years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax.*
34 *See part IV (section 31 and following), subchapter A, chapter 1 of the Code. In general, the tax is payable upon*
35 *the basis of returns rendered by persons liable therefor (subchapter A (sections 6001 and following), chapter 61*
36 *of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint*
37 *return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1,*
38 *1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31,*
39 *1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of*
40 *1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the*
41 *calendar years 1968, 1969, and 1970, see section 51(a).*

42 *[SOURCE:*

43 [http://a257.g.akamaitech.net/7/257/2422/10apr20061500/edocket.access.gpo.gov/cfr_2006/aprqr/26cfr1.1-](http://a257.g.akamaitech.net/7/257/2422/10apr20061500/edocket.access.gpo.gov/cfr_2006/aprqr/26cfr1.1-1.htm)
44 [1.htm\]](http://a257.g.akamaitech.net/7/257/2422/10apr20061500/edocket.access.gpo.gov/cfr_2006/aprqr/26cfr1.1-1.htm)

45 2. [26 CFR §1.6012-1\(a\)](#):

46 *TITLE 26--INTERNAL REVENUE*

¹ Adapted from section 6 of memorandum of law entitled *Why Your Government is Either a Thief or You are a “Public Officer” for Income Tax Purposes*. Form #05.008, available at: <http://sedm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf>