

CIVIL COURT REMEDIES FOR SOVEREIGNS: TAXATION



October 31, 2009
Version 1.02

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<http://sedm.org/>

REVISION HISTORY

<i>Date</i>	<i>Version</i>	<i>Description</i>
07/01/08	1.00	Completed initial version.
10/26/08	1.01	<ol style="list-style-type: none">1. Updated section 14.2. Updated section 20.1.3. Expanded section 14 to add the Supreme Court and the Court of Appeals for the Federal Circuit to the table.4. Added section 14.7: Court of Appeals for the Federal Circuit.5. Expanded section 13.2 to add reference to notes under 28 USC §171.
10/31/09	1.02	<ol style="list-style-type: none">1. Added section 13: Discovery.2. Added section 14: Authorities on Summary Judgments.3. Added section 15.1.4. Expanded section 15.2.

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1 Introduction

Those who choose to establish their sovereignty using the materials on this website and the law will undoubtedly be faced at some point with the prospect of defending it in a court of law. This is especially true in the case of tax litigation. Sovereigns face special challenges and requirements that most in the legal profession do *not* know about and have never confronted, such as the following:

1. They are typically nonresidents and foreigners but not “aliens”.
2. They do not have a domicile in the forum. This imposes obstacles to enforcing civil laws against them.
3. They do not participate in government franchises, so statutes that administer the franchises may not be cited against them.
4. They must be careful to properly invoke the court’s jurisdiction in their defense or they will surrender their sovereign immunity.
5. Their commercial relationship to the forum is the origin of all of the court’s civil jurisdiction.
6. They must challenge jurisdiction at every step of the way to prevent illegally enforcing obligations of franchises against them.

This pamphlet will thoroughly analyze all of the above constraints and demonstrate how they are enforced during tax litigation. It will demonstrate this for the case of a the only type of entity that a person can be as a Member of SEDM who satisfies the terms of the SEDM Fellowship Member Agreement, which is a human being:

1. Who is a “nonresident alien” as defined in 26 U.S.C. §7701(b)(1)(B).
2. Who is not an “alien” or “resident alien” as defined in 26 U.S.C. §7701(b)(1)(A) .
3. Who is not engaged in a “trade or business” as defined in 26 U.S.C. §7701(a)(26).
4. Whose estate is a “foreign estate” as defined in 26 U.S.C. §7701(a)(31) .
5. Who has corrected all information returns connected with their name in order to ensure that they are not associated with an excise taxable “trade or business” as instructed below:
 - 5.1. *Correcting Erroneous Information Returns*, Form #04.001
<http://sedm.org/Forms/FormIndex.htm>
 - 5.2. *Correcting Erroneous IRS Form 1042's*, Form #04.003:
<http://sedm.org/Forms/FormIndex.htm>
 - 5.3. *Correcting Erroneous IRS Form 1098's*, Form #04.004:
<http://sedm.org/Forms/FormIndex.htm>
 - 5.4. *Correcting Erroneous IRS Form 1099's*, Form #04.005:
<http://sedm.org/Forms/FormIndex.htm>
 - 5.5. *Correcting Erroneous IRS Form W-2's*, Form #04.006:
<http://sedm.org/Forms/FormIndex.htm>
6. Who does not participate in Social Security and who has no federal identifying number, such as SSN, TIN, or EIN. This was accomplished using the following:

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

7. Who corrected all government records reflecting their citizenship, domicile, and tax status using the following form:

Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001
<http://sedm.org/Forms/FormIndex.htm>

8. Who updated their passport to correct their citizenship and domicile using the following form:

USA Passport Application Attachment, Form #06.007
<http://sedm.org/Forms/FormIndex.htm>

9. Who has updated their voter registration with the following form.

Voter Registration Attachment, Form #06.003
<http://sedm.org/Forms/FormIndex.htm>

2 Litigation Tools for Freedom Fighters

The following mostly free litigation tools are available to those who want to put to use the information contained in this pamphlet in a real federal court:

1. *SEDM Litigation Tools Page*: Several forms, publications, and research tools for litigators.
<http://sedm.org/Litigation/LitIndex.htm>
2. *Legal Research DVD*, Form #11.201. U.S. Code, CFR's, historical tax statutes, tax litigation references. Excellent!
<http://sedm.org/Forms/FormIndex.htm>
3. *Legal Research Sources*: Extensive free federal and state legal references.
<http://famguardian.org/TaxFreedom/LegalRef/LegalResrchSrc.htm>
4. *State Legal Resources*: Constitution, statutes, regulations, rules, court rulings for all 50 states.
<http://famguardian.org/TaxFreedom/LegalRef/StateLegalResources.htm>
5. *Federal Litigation Quick Reference*, Litigation Tool #10.001: Summary of most federal rules and procedures for both civil and criminal court.
<http://sedm.org/Litigation/LitIndex.htm>
6. *Subject Matter Index*: Exhaustive index of legal subjects for freedom and fraud fighters.
<http://famguardian.org/Subjects/Taxes/SubjectIndex.htm>
7. *Versuslaw*: Inexpensive case research tool. Includes both federal case databases and state databases for all 50 states. Statute and regulations tools are poor, but inexpensive for those who can't afford a Westlaw account. Only \$13.95/month for the standard plan.
<http://versuslaw.com>
8. *The Tax Court Scam*, Form #05.039: Why nontaxpayers Can't lawfully litigate ANY tax matter in the U.S. Tax Court. It's a franchise court that only serves franchisees called "taxpayers".
<http://versuslaw.com>
9. *Criminal Tax Manual*, United States Dept. of Justice
<http://www.usdoj.gov/tax/readingroom/2001ctm/index.htm>
10. *U.S. Attorneys' Manual*, United States Dept. of Justice
http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/
11. *What Happened to Justice?*, Litigation Tool #08.001: Book containing exhaustive proof that federal circuit and district courts are Article IV legislative franchise courts, not true Article III courts
<http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm>
12. *Federal Criminal Practice Guide*, James Publishing: Practice guide used by attorneys to defend or prosecute federal criminal acts. Inexpensive and very complete. Only \$99.
<http://www.jamespublishing.com/books/fcp.htm>
13. *Federal Civil Trials and Evidence Practice Guide*, Rutter Group. This is the main book most U.S. attorneys use to litigate. Only \$300. Excellent.
<http://www.ruttergroup.com/cartfcte.htm>
14. *Responding to a Criminal Tax Indictment*, Litigation Tool #10.004
<http://sedm.org/Litigation/LitIndex.htm>
15. *Silence as a Weapon and a Defense in Legal Discovery*, Form #05.021
<http://sedm.org/Forms/FormIndex.htm>
16. *Secrets of the Legal Industry*, Litigation Tool #10.009, book by Richard Cornforth. Tips on general litigation for the law layman
<http://sedm.org/Litigation/LitIndex.htm>
17. *Family Legal Assistant Database*: Free case management software that manages all the documents, witnesses, evidence, and hearings of your case. Requires Microsoft Access 2003 or later to run and program registration.
<http://famguardian.org/Tools/FLA/FLA.htm>
18. *SEDM Forms Page*: Section 1.5 contains several very useful memorandums of law that you can attach to your legal pleadings.
<http://sedm.org/Forms/FormIndex.htm>

3 Nature of IRC Subtitle A

The income tax described in Subtitle A of the Internal Revenue Code is an excise tax upon a "trade or business", which is defined as "the functions of a public office" within the United States government:

26 U.S.C. Sec. 7701(a)(26)

"The term 'trade or business' includes the performance of the functions of a public office."