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1 Introduction

This memorandum of law shall prescribe the most important provisions of law constraining the collection of Internal Revenue taxes by the Internal Revenue Service and the burden of proof imposed upon the government in proceeding lawfully during the collection process. It will summarize these provisions in the Conclusions section later. It is intended to be attached to correspondence you send to the IRS in order to remind them of the burden of proof and provisions of law that they must satisfy before they can expect any cooperation from you.

2 Fair Debt Collection Practices Act Mandates Creditor to Timely Produce Verified Evidence of Proof of Debt

When a government representative sends any kind of collection notice to a private American, they are asserting the existence of a debt and must meet all the requirements of law placed upon private third party debt collectors. The U.S. Supreme Court prescribed that all tax liabilities are “debts” when it said:

“Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to enforce it outside the state where rendered, see Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 292, et seq. 8 S.Ct. 1370, compare Faulleroy v. Lum, 210 U.S. 230, 28 S.Ct. 641, still the obligation to pay taxes is not penal. It is a statutory liability, quasi contractual in nature, enforceable, if there is no exclusive statutory remedy, in the civil courts by the common-law action of debt or indebitatus assumpsit. United States v. Chamberlin, 219 U.S. 250, 31 S.Ct. 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; Dollar Savings Bank v. United States, 19 Wall. 227; and see Stockwell v. United States, 13 Wall. 531, 542; Meredith v. United States, 13 Pet. 486, 493. This was the rule established in the English courts before the Declaration of Independence, Attorney General v. Weeks, Bunbury's Exch. Rep. 223; Attorney General v. Jewers and Batty, Bunbury's Exch. Rep. 225; Attorney General v. Hatton, Bunbury's Exch. Rep. [296 U.S. 268, 272] 262; Attorney General v. ___, 2 Ans. Rep. 558; see Comyn's Digest (Title 'Dett,' A, 9); 1 Chitty on Pleading, 123; cf. Attorney General v. Sewell, 4 M.&W. 77. “[Milwaukee v. White, 296 U.S. 268 (1935)]

The legal dictionary defines “indebitatus assumpsit” as follows:

“Indebitatus assumpsit. Lat. Being indebted, he promised or undertook. That form of the action of assumpsit in which the declaration alleges a debt or obligation to be due from the defendant, and then avers that, in consideration thereof, he promised to pay or discharge the same.” [Black's Law Dictionary, Sixth Edition, p. 768]

Notice the phrase “in consideration thereof”, which implies that the party who voluntarily accepted some government benefit agreed to pay for that benefit. This is a result of the common law, which says that a person accepts a benefit agrees to all obligations arising from the acceptance of that benefit. This common law requirement is codified in California civil law as follows:

California Civil Code
Section 1589

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

However, the U.S. Supreme Court has acknowledged that the Social Security system does not contractually obligate the government to provide the benefit that is the subject of the agreement or contract. See Fleming v. Nestor, 363 U.S. 603 (1960); Railroad Retirement Board v. Fritz, 449 U.S. 166 (1980). If the benefits are not contractual, then equal protect of the law requires that the payment for the benefits is not contractual either. See Fourteenth Amendment, Section 1 and 42 U.S.C. §1981.
In recognition of taxes as “debts”, the following provisions of law require that the IRS obey the Fair Debt Collection Practices Act (FDCPA) in respect to the tax collection process.


The provision of the FDCPA which regulates production of verified proof of liability is found in 15 U.S.C. §1692g, which states in pertinent part:

15 U.S.C. §1692g(b) above requires that the creditor must, within 30 days of a written request, supply verified evidence of the debt. In the case of Internal Revenue taxes or state income taxes, the only admissible evidence is a verified assessment signed under penalty of perjury by an assessment officer as required by 26 U.S.C. §6065 and 26 C.F.R. §301.6203-1. For a form useful in requesting such verified evidence, see the following:

Demand for Verified Evidence of Lawful Federal Assessment, Form #07.304
http://sedm.org/Forms/FormIndex.htm
3 Legal Requirements Upon Burden of Proof

In any administrative proceeding such as tax collection, the moving party has the burden of proving his position using court-admissible evidence. This requirement is described in the Administrative Procedures Act, 5 U.S.C. §556(d) as follows:

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

[SOURCE: http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_0000556----000-.html]

The Internal Revenue Code describes this same burden of proof below.

(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.

(b) Use of statistical information on unrelated taxpayers
In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

(c) Penalties
Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.
Note that Section 7491 establishes the burden of proof ONLY in the case of “taxpayers” and NOT to all persons or even to “nontaxpayers”. Most “nontaxpayers” are nonresidents, and statutory law cannot impose any legal requirement upon “nontaxpayer”.

"Judge Story, in his treatise on the Conflicts of Laws, lays down, as the basis upon which all reasonings on the law of comity must necessarily rest, the following maxims: First 'that every nation possesses an exclusive sovereignty and jurisdiction within its own territory'; secondly, 'that no state or nation can by its laws directly affect or bind property out of its own territory, or bind persons not resident therein, whether they are natural born subjects or others.' The learned judge then adds: 'From these two maxims or propositions there follows a third, and that is that whatever force and obligation the laws of one country have in another depend solely upon the laws and municipal regulation of the latter; that is to say, upon its own proper jurisdiction and polity, and upon its own express or tacit consent.' Story on Conflict of Laws §23."

You will also note that the federal government enjoys no legal jurisdiction within any state of the Union, and that the Internal Revenue Code qualifies as “legislation” within the meaning of the following U.S. Supreme Court ruling:

"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, 1 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."

The process of proving liability must conform to the following sequence.

1. If the party claims or acquiesces to being called a “taxpayer”, then any provision of the I.R.C. may be applied against him or her. See: Your Rights as a NONTaxpayer, Form #08.008 http://sedm.org/LibertyU/NontaxpayerBOR.pdf

2. If the target of the government action denies under penalty of perjury that he is a “taxpayer” and instead claims to be a "nontaxpayer", then no provision of any part of the Internal Revenue Code may be applied against him until it is proven administratively with court admissible evidence by the government that he is a “taxpayer” subject to the Internal Revenue Code as described in 26 U.S.C. §7701(a)(14) and 1313. The only exception to this rule is “public officers” working for the government.

3. Silence in responding to evidence presented of illegal activities to a public official or a failure by the public official to deny gives rise to a permissible and “adverse inference” against the public servant who has been presented with evidence of his own violations of law. That adverse inference is a form of evidence. Government employees are “public officers” and trustees of the people. As such, they owe a fiduciary duty to the public at large.

"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. 4 Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vacations, 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. 5 That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves, 6 and owes a fiduciary duty to the public. 7 It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. 8 Furthermore,


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) 86 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).

The fiduciary duty of “public officers” is completely incompatible with and inconsistent with silence in responding to claims by a member of the public that specific employees or agencies are violating the law. See section 7:

Silence as a Weapon and a Defense in Legal Discovery, Form #05.021
http://sedm.org/Forms/FormIndex.htm

4. The benefit of the doubt is always in favor of the person against whom the tax is to be laid or collected.

"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)]

"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 US 303, pp. 314 - 315, 82 L.Ed. 858. (1938)]

5. Any presentment by either party that is not specifically denied is admitted and defaulted to, pursuant to Federal Rule of Civil Procedure 8(b)(6). See: http://www.law.cornell.edu/rules/frcp/Rule8.htm

6. All presumptions which might prejudice constitutionally protected rights are impermissible and unconstitutional and may not lawfully be made, nor admitted as evidence in any trial before any court:

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

7. If law is the source of evidence to be admitted, then pursuant to 1 U.S.C. §204, it is admissible as evidence if enacted into positive law. If the statute is not enacted into positive law, such as the entire Internal Revenue Code, then it becomes "prima facie evidence", which is "presumed to be law, exclusively applicable to the District of Columbia". See 28 U.S.C. §1366. Since presumptions that prejudice constitutionally protected rights are unconstitutional, then each provision or individual statute cited as authority by the moving party domiciled in a state of the Union and protected by the Constitution must individually be demonstrated to be positive law using quotes from the Statutes At Large. Failure by the moving party or the Court to follow this provision constitutes a violation of due process of law and the use essentially of "presumption" as a substitute for lawful evidence.

"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. Cal[J.Evid.Code, §600."

4 Admissible Evidence of Claim

The Federal Rules of Evidence prescribe the rules to be applied towards evidence which the moving party presents to prove their claim. Most forms of evidence that might be presented are usually excludible under the Hearsay Rule, Federal Rule of Evidence 802. All evidence which is admitted into evidence in establishing a liability or one’s status as a “taxpayer” must satisfy the following criteria:

1. Evidence must be authenticated with either a perjury statement or a testimonial oath.
2. Evidence must come from someone who has personal knowledge of the facts in question.
3. Evidence must be consistent and compatible with all of the Federal Rules of Evidence.

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4. Evidence must be produced completely consistent with the entire content of the IRS Internal Revenue Manual. The IRS Restructuring and Reform Act of 1998, 112 Stat. 685, Section 1102 and 26 U.S.C. §7811(a)(3) both require that the Internal Revenue Manual must be followed in all cases, and that the Taxpayer Advocate must construe every situation to the benefit of the “taxpayer” where it has not been followed.

5. Evidence must come from an unbiased witness who has no financial interest in the outcome of the proceeding. This means that if it relates to a tax matter, it should come from a third party whose pay and benefits do not derive either directly or indirectly from the tax in question. Due process of law mandates an impartial decision maker and impartial witnesses.

6. Any document not signed under penalty of perjury or with testimony under oath, is excludible under the Hearsay Rule, Federal Rule of Evidence 802.

7. Evidence may not constitute a presumption. Presumptions are not admissible as evidence.

“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.” [Black’s Law Dictionary, Sixth Edition, p. 1185]

8. Evidence may not constitute a religious belief or opinion, because these are excluded pursuant to Federal Rule of Evidence 610.

9. If the fact being established is whether the party “willfully violated a known legal requirement”, also called “willfulness”, then the only basis for reasonable belief about one’s tax liability is: 1. The rulings of the Supreme Court and not lower courts; 2. The Statutes at Large after January 2, 1939; 3. The Constitution of the United States; 4. Only those provisions within the Internal Revenue Code which are proved individually to be “positive law” and not “prima facie” or “presumed” law applicable exclusively to the District of Columbia. See the following for proof of this:

Reasonable Belief About Income Tax Liability, Form #05.007
http://sedm.org/Forms/FormIndex.htm

10. Statutes without implementing regulations may be cited directly as evidence of a duty or obligation only in the case of persons specifically exempted from the requirement for implementing regulations appearing in 44 U.S.C. §1505(a) and 5 U.S.C. §553(a). A person domiciled in a state of the Union who is not a member of these specifically exempted groups may conclude that he has a legal liability under a statute only in the case where an implementing regulation published in the Federal Register identifies him specifically as the proper audience for that statute. The specifically exempted groups identified above include:

10.3. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. 5 U.S.C. §553(a)(1).
10.5. Persons in their capacity as officers, agents, or employees of federal agencies. 44 U.S.C. §1505(a)(1).

Pursuant to 44 U.S.C. §1505(a) and 5 U.S.C. §553(a), no law may be enforced or prescribe a penalty against a person domiciled in a state of the Union who is not involved in one of the above activities. This provision preempts any enforcement of the Internal Revenue Code against anyone in states of the Union not a member of the above exempted groups, which is nearly everyone. This is confirmed by 26 C.F.R. §601.702(a)(2)(ii) and 5 U.S.C. §552(a).

TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552
§ 552. Public information; agency rules, opinions, orders, records, and proceedings
(a)(1)

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

For further details on the above requirement for “reasonable notice”, see:

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

Copyright Sovereignty Education and Defense Ministry, http://sedm.org
Form 05.025, Rev. 11-6-2006

EXHIBIT:____
11. Must be considered in light of contradictory evidence submitted which rebuts it. For instance, if the IRS is receipt of an information return documenting “trade or business” earnings in conformance with 26 U.S.C. §6041 and the party who is the subject of the return rebuts this evidence with a corrected information return signed under penalty of perjury, then the original unverified information returns are no longer admissible because superseded by evidence of greater weight. The original information returns are not signed under penalty of perjury and the correction is. Therefore, the information returns have been duly rebutted and may not be considered in determining liability. See the following for information on the proper use, submission, and processing of information returns:

http://sedm.org/LibertyU/WithngAndRptng.pdf

In regards to the admissibility of evidence, 26 U.S.C. §6065 establishes that all documents created under the authority of the Internal Revenue Code must be signed under penalty of perjury, which should make them admissible as evidence. Unfortunately, federal courts have deprived Americans in states of the Union of equal protection of the laws by applying this provision to them while excluding the Internal Revenue Service from this provision of law.

Notice the above provision does NOT expressly exclude declarations, statements, or documents prepared by IRS employees from its requirements. Equal protection of the laws mandated by Section 1 of the Fourteenth Amendment furthermore requires that the same provisions shall be applied to everyone:

TITLE 42 > CHAPTER 21 > SUBCHAPTER I > Sec. 1981.
Sec. 1981. - Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

5 Severe Penalties for False Claims

The False Claims Act, 31 U.S.C. §3729, authorizes any person aware of a false claim presented to or by any private American or any federal employee to sue for damages in the name of the United States of America. To wit:

TITLE 31 > SUBTITLE III > CHAPTER 37 > SUBCHAPTER III > § 3729
§ 3729. False claims

(a) Liability for Certain Acts.—Any person who—

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

SOURCE: http://www4.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00007421----000-.html

An IRS employee who makes a false tax collection claim against anyone is personally liable under the above provisions of law for up to THREE TIMES and not less than TWO TIMES the amount of the false claim. The above provision of law also authorizes any third party to bring the suit in the name of the “United States of America” as a “qui tam” action.

Qui tam action. Lat. “Qui tam” is abbreviation of Latin phrase “qui tam pro domino regem pro si ipso in hac parte sequitur” meaning “Who sues on behalf of the King as well as for himself.” It is an action brought by an informer, under statute which establishes a penalty for the commission or omission of a certain act, and provides that the same shall be recoverable in a civil action, part of the penalty to go to any person who will bring such action and the remainder to the state or some other institution. It is called a “qui tam action” because the plaintiff states that he sues as well for the state as for himself. U.S. v. Florida-Vanderbilt Development Corp., D.C.Fl., 326 F.Supp. 289, 290. See also False Claims Act; Whistle-blower Acts.


In addition to penalties under the False Claims Act, IRS employees and supervisor can also be prosecuted pursuant to:


The above provisions of law do not provide a statutory remedy for “nontaxpayers”, and therefore those persons will need to sue under equity rather than law as “nontaxpayers”. In addition, statutory remedies for extortion, denial of rights, etc. appear in Titles 18 and 42 of United States Code.

6 Rebutted False Arguments About This Document

6.1 Burden of Proof is on you, not the government, to prove you are a “nontaxpayer” and “not liable”?

Source: Flawed Tax Arguments to Avoid, Form #08.004, Section 8.19; http://sedm.org/Forms/FormIndex.htm.
False Argument: Those wishing to challenge illegal tax enforcement actions against “nontaxpayers” have the burden of proving that they are “nontaxpayers” and “not liable”. The government doesn’t have to prove anything.

Corrected Alternative Argument: The innocent until proven guilty maxim of American Jurisprudence requires that you are innocent until proven guilty. The legal equivalent of “innocent” is that of a “nontaxpayer” who is NOT subject rather than statutorily “exempt”. The government therefore has the burden of proving in court that you CONSENTED to BECOME a statutory “taxpayer” and had the legal capacity to consent before it may TREAT you as a statutory “taxpayer”. Otherwise, INJUSTICE, identity theft, involuntary servitude, and THEFT results from illegal enforcements against those who are not subject.

Further information:
1. Government Identity Theft, Form #05.046-the criminal consequences of forcing YOU to have the burden of proof that you are NOT a “customer” of government.
   http://sedm.org/Forms/FormIndex.htm
2. Government Burden of Proof, Form #05.025.
   http://sedm.org/Forms/FormIndex.htm

Government’s FIRST duty is to protect your right to be LEFT ALONE. That right BEGINS with being LEFT ALONE and not becoming the target of enforcement actions if you are not a “customer” of government franchise or civil statutory protection.

“The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued by civilized men.”

PAULSEN, ETHICS (Thilly's translation), chap. 9.

“Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interests of others, and, as far as possible, hinders such interference on the part of others. This virtue springs from the individual’s respect for his fellows as ends in themselves and as his co equals. The different spheres of interests may be roughly classified as follows: body and life; the family, or the extended individual life; property, or the totality of the instruments of action; honor, or the ideal existence; and finally freedom, or the possibility of fashioning one’s life as an end in itself. The law defends these different spheres, thus giving rise to a corresponding number of spheres of rights, each being protected by a prohibition. . . . To violate the rights, to interfere with the interests of others, is injustice. All injustice is ultimately directed against the life of the neighbor; it is an open avowal that the latter is not an end in itself, having the same value as the individual’s own life. The general formula of the duty of justice may therefore be stated as follows: Do no wrong yourself, and permit no wrong to be done, so far as lies in your power; or, expressed positively: Respect and protect the right.”

“Justice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit.”
[James Madison, The Federalist No. 51 (1788)]

“Do not strive with [or try to regulate or control or enslave] a man without cause, if he has done you no harm.”
[Prov. 3:30, Bible, NKJV]

In other words, you have a right to be treated as a “non-customer” of government civil statutory franchise protection or enforcement unless and until the GOVERNMENT proves you consented to become a customer and that you had the lawful authority and capacity to consent and therefore alienate a right in relation to them. This is consistent with the Declaration of Independence, which says that your rights are INCAPABLE of being alienated and that all JUST powers of government derive from the CONSENT of the governed. Anything not traceable DIRECTLY to EXPRESS consent is therefore inherently UNJUST, AND that consent cannot alienate any constitutional right in places where the constitution applies:
Imagine for a moment any private business that:

1. Only had one product. In the case of government, that would be “protection”.
2. Could charge whatever it wants for its services. There are no constitutional limits on the tax rate.
3. When you come into their store to sign up for the service, forces you to buy EVERYTHING they sell before you can leave the store. When you sign up for a driver license, they:
   3.1. Acquire the right to PRESUME that you are a “resident” for ALL civil purposes.
   3.2. Presume that you are subject to ALL civil statutory franchises they offer.
   3.3. Force you to sign up for Social Security in order to obtain an SSN to put on the application. And if you don’t have one, they require you to get a note from the SSA saying that you are NOT eligible.
   3.4. Force you to become a “taxpayer” and a public officer. Social Security Numbers can only be used by public officers on official business. If you use one, you are PRESUMED to be a public officer and the subject of the Public Salary Tax Act that started the modern income tax in 1939. This is called “exhausting administrative remedies before pursuing a civil statutory judicial remedy”.
5. Made it a CRIME to IMPERSONATE a customer but refused to prosecute the crime. All “taxpayers” are public officers, and it’s a crime to impersonate a public officer. 18 U.S.C. §912. That crime is committed BILLIONS of times a year by most Americans.
6. Was allowed to PRESUME that everyone is a customer, whether they consented or not. That customer in this case is called a “citizen” or a “resident”. All presumptions that violate your constitutional rights are a violation of the due process clause of the Fifth Amendment. See:
   6.1. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 http://sedm.org/Forms/FormIndex.htm
   6.2. Your Exclusive Right to Declare and Establish Your Civil Status, Form #13.008 http://sedm.org/Forms/FormIndex.htm
7. Was allowed to impose ANY DUTY they want in connection with BEING a “customer”, in SPITE of the fact that both public and private involuntary servitude and slavery is a CRIME forbidden by the Thirteenth Amendment.
8. Required you to prove that you are NOT a “customer” BEFORE they have an obligation to leave you alone. In practice it is next to IMPOSSIBLE to prove a negative, which automatically places you a severe disadvantage.
9. Was allowed to make all “customers” into its own “employees” and officers, often without their knowledge. This is done by playing word games in the customer contract or compact. See:
   Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037 http://sedm.org/Forms/FormIndex.htm
10. Required you to satisfy the entire employment agreement called the “civil code”, which is a franchise privilege, BEFORE you could abandon the contractual obligations of being a “customer” and therefore “employee” or “officer”. This is called “exhausting administrative remedies before pursuing a civil statutory judicial remedy”.

The government’s corrupt enforcement practices don’t pass the “smell test”. Any private business that operated upon the above premises would be quickly prosecuted for the following offenses:

1. Identity theft. See Form #05.046.
2. Grand theft.
3. Involuntary servitude in violation of the Thirteenth Amendment.
5. Criminal stalking. They would be ordered with a restraining order to stay away.

Why doesn’t the GOVERNMENT prosecute itself for the above offenses in the context of the way it does tax and civil enforcement? If Titles of Nobility are forbidden and we are ALL equal according to the Constitution and the Supreme Court, then what gives any government the right to do the above without YOU being able to do it to them?
In all civil or legal actions, the moving party always has the burden of proof. This is reflected in the Administrative procedures Act:

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

SOURCE: http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000556----000-.html

In any and all tax or civil enforcement action instituted against you by the government, the GOVERNMENT is the moving party asserting you have an obligation and usually, that you failed to fulfill that civil obligation. That obligation, in turn, derives usually from a civil franchise of some kind that attaches to a civil prerequisite status such as “citizen”, “resident”, “taxpayer”, “spouse”, etc. If you never consented to the specific civil status that is the target of the civil enforcement, then in effect you are the victim of INJUSTICE. The purpose of the courts is to PREVENT injustice, not to protect the government mafia from the consequences of the INJUSTICE it imposes upon others. That’s why judges are called “justices”.

Below is what some courts have said about the impossibility of proving a negative, meaning proving that you are NOT a “taxpayer”, “citizen”, “resident”, etc. They mention “taxpayers”, but the requirement obviously also pertains to those who are NOT “taxpayers” and who therefore are the target of illegal enforcement.

"The taxpayers were entitled to know the basis of law and fact on which the Commissioner sought to sustain the deficiencies.”
[Helvering v. Tex-Penn Oil Co., 300 U.S. 481, 498 (1937)]

"... Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability.”
[Bothke v. Terry, 713 F.2d 1405, 1414 (1983)]

"In Janis, supra, the Supreme Court decided that the exclusionary rule did not prevent the Internal Revenue Service (IRS) from using illegally-seized evidence as the basis from which to extrapolate a taxpayer’s unreported income from wagering activities. Prior to addressing the exclusionary question, the Court stated that if the illegally-seized evidence could not be used, then the result would be:

‘a ‘naked’ assessment without Any foundation whatsoever . . . . The determination of tax due then may be one without rational foundation and excessive, and not properly subject to the usual rule with respect to the burden of proof in tax cases.’ (citations and footnotes omitted)

428 U.S. at 441, 96 S.Ct. at 3026. The Court noted that there was apparently some conflict between the Federal Courts of Appeals as to the burden of proof in tax cases, and then went on to make these observations:

"However that may be, the debate does not extend to the situation where the assessment is shown to be naked and without Any foundation.

"Certainly, proof that an assessment is utterly without foundation is proof that it is arbitrary and erroneous.”

428 U.S. at 442, 96 S.Ct. at 3026. While the quoted language may not have been dispositive of the issue decided in Janis, supra, it certainly is a strong indication that the Commissioner must offer some foundational support for the deficiency determination before the presumption of correctness attaches to it. After all, as the Court observed in Ekins v. United States, 364 U.S. 206, 80 S.Ct. 1437, 4 L.Ed.2d 1669 (1960), ‘... as a practical matter it is never easy to prove a negative . . . .’ 364 U.S. at 218, 80 S.Ct. at 1444. See also Flores v. United States, 551 F.2d 1169, 1175 (9th Cir. 1977).
A Tax Court decision finding unreported income from gambling activities was reversed in Gerardo, supra, because of the lack of any evidence to support the Commissioner’s presumption of correctness. The court reasoned as follows:

“. . . in order to give effect to the presumption on which the Commissioner relies, some evidence must appear which would support an inference of the taxpayer’s involvement in gambling activity during the period covered by the assessment. Without that evidentiary foundation, minimal though if (sic) may be, an assessment may not be supported even where the taxpayer is silent. (citations omitted)

“While we realize the difficulties which the Commissioner encounters in assessing deficiencies in circumstances such as are presented here, we nevertheless must insist that the Commissioner provide some predicate evidence connecting the taxpayer to the charged activity if effect is to be given his presumption of correctness. Here, the record is barren of that underlying evidence . . . .”

552 F.2d at 554-555. Even though Weimerskirch did not testify in the present case, following the teachings of Gerardo, supra, the Commissioner still cannot rely on the presumption in the absence of a minimal evidentiary foundation.

In another case involving failure to report income from wagering activities, the Fifth Circuit was faced with a factual situation analogous to that presented here. Carson, supra. The court rejected the government’s attempt to rely solely upon the presumption of correctness and said:

“Such a position, which would support the most arbitrary of assessments so long as the taxpayer found himself unable to prove a negative, frequently difficult in quite innocent circumstances, does not become the government’s agents, and we readily reject it.”

560 F.2d at 698. Even the most innocent of persons would have difficulty in disproving such a serious charge as selling heroin, when the party making the charge was not required to present any evidence.


“By holding that the Internal Revenue Service has the burden of persuasion on this issue, we are determining that in the absence of proof, the plaintiff will prevail. See 9 Wigmore on Evidence § 2485 (3d ed. 1940). Were this not the case, the taxes of a California resident could be collected from a totally unrelated person in New York, and the New Yorker would be forced to prove a negative fact about which he has absolutely no information, i.e., that the Californian has no interest in his property. 7 Principles”

[Flores v. U.S., 551 F.2d 1169 (C.A.9 (Cal.), 1977)]

“as a practical matter it is never easy to prove a negative”.

[Elkins v. United States, 364 U.S. 206, 218, 80 S.Ct. 1437 1444, 4 L.Ed.2d 1669 (1960)]

American criminal jurisprudence is based upon the “innocent until proven guilty beyond a reasonable doubt” maxim. While this maxim applies to criminal and not civil situations, income tax offenses are prosecuted as crimes, and therefore, it applies in that case as well.

In the context of taxation, being “innocent” means that you are NOT a “customer” of the public office and “trade or business” franchise called a “taxpayer”. In other words, that you are a “nontaxpayer”. Therefore, you must be presumed to be a “nontaxpayer” and therefore not a “customer” of government unless and until the GOVERNMENT proves through an independent neutral third party with evidence that:

1. You CONSENTED to become a customer.

The Commissioner’s deficiency determination covering a later period of gambling activities was upheld. However, there was sufficient substantive evidence to support the Commissioner’s determination for the subsequent period. Gerardo, supra, 552 F.2d at 553.

The court described the effect of the requirement that the Commissioner must provide some substantive evidence to support the deficiency determination as follows:

“Neither tax collection in general nor wagering activities in particular, however, have ever been thought wholly to excuse the government from providing some factual foundation for its assessments. The tax collector’s presumption of correctness has a herculean muscularity of Goliathlike reach, but we strike an Achilles' heel when we find no muscles, no tendons, no ligaments of fact.”

Carson, supra, 560 F.2d at 696.
2. You were domiciled and physically present in a place where you could lawfully ALIENATE private rights, which means federal territory not within any state of the Union.

3. The consent was provided in WRITING.

4. No duress was involved.

5. You did NOT notice them previously that you surrendered your civil status as a “customer” of the “trade or business” franchise agreement called a statutory “taxpayer”. They can’t use the “dog ate my homework” excuse.

THIS is the burden imposed upon the Internal Revenue Service BEFORE it may engage in any kind of enforcement action. Any other approach represents INJUSTICE on a massive scale. You don’t have to prove that you are NOT a “customer” or “taxpayer”, they have to prove that you ARE.

The courts and the IRS try to side-step these requirements with the following illegal tactics:

1. **The Full Payment Rule.** This requires “taxpayers” to pay the full amount due BEFORE litigating. It does not pertain to those who are NOT “taxpayers”, which is most Americans. See Laing v. U.S., 423 U.S. 161, 96 S.Ct. 473 (1976).

2. **Structuring “tax court”** in such a way that you cannot enter it without being a Plaintiff rather than a defendant. This shifts the burden of proof to YOU to prove that you ARE NOT a “customer”.

We bypass all the above methods of essentially hunting and trapping men like animals and prey by the following techniques:

1. Insisting that we are equal.

2. Kidnapping THEM into being OUR “customers” whenever they communicate with us. If they can practice institutionalized identity theft and we are all equal, then it must be OK for US to do it to them as a defense against their same tactics.

3. Using the following as the “customer” agreement in all interactions with them:

   **Government Identity Theft**. Form #05.046
   [http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

   **Injury Defense Franchise and Agreement**. Form #06.027
   [http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

4. Ensuring that THEY have to live by their own rules. We have OUR OWN “Full Payment Rule” whereby THEY have to pay TWICE what they assessed against us before they can argue that they are NOT OUR customer.

5. Noticing them with the Resignation of compelled Social Security Trustee, Form #06.002, which quits you from the Social Security system and makes it impossible to act as a public officer or be eligible for government benefits.

6. The Legal Notice of Change in Domicile/Citizenship Records and Divorce from the United States, Form #10.001, which causes them to agree that we are “customer” even BEFORE they begin any enforcement action.

7. Reminding them that they ALREADY AGREED that everything on this site is truthful and legal evidence of their crimes. They tried to go after us, made themselves subject to our member agreement by going through the store checkout process, and thereby are required by our Member Agreement, Form #01.001 to agree that EVERYTHING on this website is truthful and accurate and that they consent and stipulate to admit it ALL into evidence in the context of ANY and EVERY member.

8. Telling them that the following criminal complaint applies if they DO NOT leave you alone or force you to criminally impersonate a public officer called a “taxpayer”:

   **Affidavit of Duress: Illegal Tax Enforcement by De Facto Officers**. Form #02.005
   [http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

9. Reminding them that they have NO ENFORCEMENT AUTHORITY outside of federal territory and including a criminal complaint when or if they try to enforce.

   **Federal Enforcement Authority Within States of the Union**. Form #05.023
   [http://sedm.org/Forms/FormIndex.htm](http://sedm.org/Forms/FormIndex.htm)

### 7 Conclusions

The IRS plays a vicious game of presumption of liability in the tax collection process. Most people are unaware of how this game is played and therefore are taken advantage of. Below are the rules of this game:
1. The IRS receives a information return, such as IRS Forms W-4, W-2, 1042-S, 1098, 1099 and K-1. These information returns are submitted without any verification of contained therein, such as a perjury statement or testimonial oath. Consequently, this information return is hearsay evidence not admissible under the Federal Rules of Evidence.

2. The information returns received by the IRS create the following prima facie presumptions:

   2.1. That the target of the information return is engaged in an excise taxable activity within the District of Columbia called a “trade or business”. See: The Trade or Business Scam, Form #05.001 http://sedm.org/Forms/FormIndex.htm

   2.2. That the target of the information return is engaged in commerce with the federal government and consents to become a “resident alien” of the District of Columbia subject to exclusive federal legislative jurisdiction. This results in a surrender of sovereign immunity pursuant to 28 U.S.C. §1605(a)(2) on the part of the American National. See: http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm

   2.3. That the target of the information return is a “taxpayer” subject to every provision of the Internal Revenue Code Subtitle A.

   2.4. That the existence of a Social Security Number on the information Return creates an obligation to participate in federal income taxation, pursuant to Social Security Act of 1935, Title 8, Section 801. See: http://www.ssa.gov/history/35acviii.html

3. After the presumption has been established that you are a “taxpayer”, the burden of proof shifts to you to prove that you aren’t. Because it is legally impossible to prove a negative, this puts you in an untenable and winnable situation and all your arguments become frivolous and irrelevant. The only way to prevail in the above process is to:

1. Vociferously insist that all government presumptions which might prejudice your rights as a party domiciled in a state of the Union and protected by the Constitution are illegal and impermissible according to the U.S. Supreme Court.

2. Fill your administrative record with exculpatory evidence admissible under the Federal Rules of Evidence which clearly establishes your correct status as a “nontaxpayer”, a national but not a citizen, a nonresident alien, and a person not engaged in any excise taxable federal privilege. This person is identified in the regulations at 26 C.F.R. §1.871-1(b)(i) and is indicated as having no federal tax liability in 26 C.F.R. §1.872-2.

3. Rebut all information returns promptly and consistently, such as IRS forms W-4, W-2, 1042-S, 1098, 1099, and K-1. Claim that they are invalid, hearsay evidence, submitted under duress, and are therefore erroneous and unreliable. See: Income Tax Withholding and Reporting Course, Form 12.0041 http://sedm.org/Forms/FormIndex.htm

4. Ask the IRS periodically for a copy of all information returns they have received to make sure that you didn’t miss any.

5. Vociferously insist that burden of proof remains on the government to prove liability at all times and that you are presumed to be a nontaxpayer until proven to be a taxpayer.

6. Vociferously deny any attempt by the IRS to identify you as a “taxpayer” subject to the Internal Revenue Code, and demand that they satisfy their burden of proof with admissible evidence.

7. Deny any attempt to identify you as a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401. This status also causes a surrender of sovereign immunity pursuant to 28 U.S.C. §1603(b)(3). See: Why you are a “national”, “state national”, and Constitutional but not Statutory Citizen, Form #05.006 http://sedm.org/Forms/FormIndex.htm

8. Ensure that you do not accept any federal privilege, benefit, or presumed benefit which might cause a surrender of your sovereign immunity pursuant to 28 U.S.C. §1605(a)(2) or create a presumption that you are subject to federal law.

9. Never on any federal or state form, identify yourself as any of the following:

   9.1. Domiciled in the “United States”. See: Why domicile and becoming a “taxpayer” require your consent, Form #05.002 http://sedm.org/Forms/FormIndex.htm

9.2. A “resident”, which is a “resident alien” or U.S. citizen abroad pursuant to 26 U.S.C. §7701(b)(1)(A).


9.4. A “taxpayer” subject to the I.R.C. pursuant to 26 U.S.C. §7701(a)(14) and 1313.

10. Resign all participation in any federal benefit program. See: Resignation of Compelled Social Security Trustee, Form #06.002 http://sedm.org/Forms/FormIndex.htm
11. Discontinue use of all federal identifying numbers stored in IRS records and databases which might create an association with an excise taxable federal privilege or a presumption that you are a “taxpayer” engaged in a “trade or business”.

American jurisprudence has always presumed that the accused is innocent until proven guilty beyond a reasonable doubt with evidence. The Internal Revenue Code does not change that requirement or any of the following legal requirements for meeting the burden of proof:

1. That persons who are to be held responsible to obey a statute must receive “reasonable notice” by publication in the Federal Register of all enforcement statutes and the regulations that implement them. Most IRS enforcement actions are undertaken without the authority of any implementing regulations, and even those implementing regulations exist, they have not been duly published in the Federal Register as required by 5 U.S.C. §552(a).

2. That presumptions may not be used as evidence or a substitute for evidence. All presumptions which prejudice constitutionally protected rights violate due process of law, including the presumption that a person is a “taxpayer”. Any administrative result based entirely or mostly upon presumption as a substitute for evidence is a violation of due process and produces an unconstitutional and void result.

3. That all evidence of liability must be verified under penalty of perjury or by testimonial oath as required by 26 U.S.C. §6065. Evidence not so verified is excludible under the Hearsay Rule, Federal Rule of Evidence 802.

4. That religious beliefs and opinions are not admissible as evidence of liability pursuant to Federal Rule of Evidence 610.

5. That an unrebuted affidavit stands as truth and a nihil dicit judgment against the party who received it. See Federal Rule of Civil Procedure 8(b)(6).

6. That public officers and federal employees are “trustees of the public trust” and fiduciaries of the public and that fiduciary duty is incompatible with silence when they are confronted with evidence of their own wrongdoing. Therefore, silence in such a circumstance constitutes admissible evidence of wrongdoing and an equitable estoppel against the public officer.

7. That the only basis for reasonable belief about one’s liability for taxes is documented in the memorandum of law below:

Reasonable Belief About Income Tax Liability, Form #05.007

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

The IRS frequently receives information returns from third parties documenting receipt of taxable “trade or business” income pursuant to 26 U.S.C. §6041. These information returns are frequently the only proof of liability available to the IRS, and yet they

1. Do not satisfy any of the requirements of the Federal Rules of Evidence.

2. Are not verified by a signature under penalty of perjury or testimonial oath as required by 26 U.S.C. §6065. The only exception to this rule is IRS forms W-2G and W-3G.

3. Are excludible under the Hearsay Rule, Federal Rule of Evidence 802.

Based on the foregoing, all information returns are simply “prima facie evidence” of a liability that can only be verified if they are accompanied by a tax return signed under penalty of perjury by the subject of the information return. Absent this type of verification, they cannot lawfully be used as a basis for instituting a substitute return against the subject of the report without their consent. Where these presumptions are challenged by the affected party, the moving party must sustain using admissible, verified evidence signed under penalty of perjury, the existence of a lawful liability.

If the subject of the information return is a natural person who would ordinarily file using IRS form 1040 or its variants, then the IRS Internal Revenue Manual does NOT authorize the completion of a Substitute For Return (SFR) or Automated Substitute For Return (ASFR), as shown in Internal Revenue Manual (I.R.M.), Section 5.1.11.6.8. Notice the conspicuous absence of Form 1040:

Internal Revenue Manual
5.1.11.6.8 (03-01-2007)
IRC 6020(b) Authority

1. The following returns may be prepared, signed and assessed under the authority of IRC 6020(b): A. Form 940, Employer’s Annual Federal Unemployment Tax Return B. Form 941, Employer’s Quarterly Federal Tax Return C. Form 943, Employer’s Annual Tax Return for Agricultural Employees D. Form 720, Quarterly Federal Excise Tax Return E. Form 2290, Heavy Vehicle Use Tax Return F. Form CT-1, Employer’s Annual Railroad Retirement Tax Return
Even the statutes cited by the IRS as authority, the Internal Revenue Code, constitute a prejudicial presumption, since they are only “prima facie evidence of law” pursuant to 1 U.S.C. §204 which is applicable exclusively to the District of Columbia pursuant to 28 U.S.C. §1366. Therefore, the IRS proceeds almost entirely and exclusively upon “presumption” not substantiated by any verified evidence of any kind in the process of collecting taxes pursuant to the I.R.C. Subtitle A. This abundance of “presumption” constitutes the equivalent of the establishment of a state-sponsored religion in violation of the First Amendment, where presumption operates as the equivalent of religious faith. Religious faith is simply a belief which cannot be proven with evidence, and that is what presumption of liability for tax operates as: religious faith.

## 8 Resources for Further Study and Rebuttal

If you would like to study the subjects covered in this short pamphlet in further detail, may we recommend the following authoritative sources, and also welcome you to rebut any part of this pamphlet after you have read it and studied the subject carefully yourself just as we have:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Type</th>
<th>Available at:</th>
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<tr>
<td>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017</td>
<td>Free memorandum of law</td>
<td><a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></td>
</tr>
<tr>
<td>Reasonable Belief About Income Tax Liability, Form #05.007</td>
<td>Free memorandum of law</td>
<td><a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></td>
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<tr>
<td>Authorities on presumption</td>
<td>Free link</td>
<td><a href="http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm">http://famguardian.org/TaxFreedom/CitesByTopic/presumption.htm</a></td>
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<tr>
<td>Legal Deception, Propaganda, and Fraud, Form #05.014</td>
<td>Free memorandum of law</td>
<td><a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></td>
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<tr>
<td>Who are Taxpayers and who needs a ‘Taxpayer Identification Number’, Form #05.013</td>
<td>Free memorandum of law</td>
<td><a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></td>
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<tr>
<td>Your Rights as a NONTaxpayer, Form #08.008</td>
<td>Free pamphlet</td>
<td><a href="http://sedm.org/LibertyU/NontaxpayerBOR.pdf">http://sedm.org/LibertyU/NontaxpayerBOR.pdf</a></td>
</tr>
<tr>
<td>Federal Jurisdiction, Form #05.018</td>
<td>Free memorandum of law</td>
<td><a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></td>
</tr>
<tr>
<td>SEDM Liberty University</td>
<td>Free educational materials for regaining your sovereignty as an entrepreneur or private person</td>
<td><a href="http://sedm.org/LibertyU/LibertyU.htm">http://sedm.org/LibertyU/LibertyU.htm</a></td>
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<tr>
<td>Family Guardian Website, Taxes page</td>
<td>Free website</td>
<td><a href="http://famguardian.org/Subjects/Taxes/taxes.htm">http://famguardian.org/Subjects/Taxes/taxes.htm</a></td>
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<tr>
<td>Sovereignty Forms and Instructions Online, Form #10.004</td>
<td>Free references and tools to help those who want to escape federal slavery</td>
<td><a href="http://famguardian.org/TaxFreedom/FormsInstr.htm">http://famguardian.org/TaxFreedom/FormsInstr.htm</a></td>
</tr>
<tr>
<td>Rebutted version of the IRS pamphlet: “The Truth About Frivolous Tax Arguments”, Form #08.005</td>
<td>Free downloadable pamphlet</td>
<td><a href="http://famguardian.org/PublishedAuthors/GovtIRS/friv_tax_rebuts.pdf">http://famguardian.org/PublishedAuthors/GovtIRS/friv_tax_rebuts.pdf</a></td>
</tr>
</tbody>
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## 9 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government

These questions are provided for readers, Grand Jurors, and Petit Jurors to present to the government or anyone else who would challenge the facts and law appearing in this pamphlet, most of whom work for the government or stand to gain financially from perpetuating the fraud. If you find yourself in receipt of this pamphlet, you are demanded to answer the questions within 10 days. Pursuant to Federal Rule of Civil Procedure 8(b)(6), failure to deny within 10 days constitutes an admission to each question. Pursuant to 26 U.S.C. §6065, all of your answers must be signed under penalty of perjury. We are not interested in agency policy, but only sources of reasonable belief identified in the pamphlet below:

Reasonable Belief About Income Tax Liability, Form #05.007
http://sedm.org/Forms/FormIndex.htm
Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully enforce federal law.

1. Admit that tax liabilities are considered “debts” pursuant to the Fair Debt Collection Practices Act.
   
   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________

2. Admit that pursuant to 15 U.S.C. §1692g(b), a creditor who receives a dispute of a debt and which demands proof of the debt must provide verified original proof of the debt within 30 days.
   
   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________

3. Admit that pursuant to 15 U.S.C. §1692g(b), a creditor who fails to provide verified proof of the debt when challenged after 30 days forfeits his right to further collection activity and repudiates the debt.
   
   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________

4. Admit in all administrative proceedings, the burden of proof is upon the moving party.

   TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 556
   § 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

   (d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557 (d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

   [SOURCE: http://www4.law.cornell.edu/uscode/html/uscode05/usc_sec_05_00000556----000-.html]

   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________

5. Admit that in tax collection actions of the government, the government is the moving party asserting the existence of a legal liability.
   
   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________

6. Admit that as the moving party in tax collection actions, the government has the burden of proving liability.
   
   YOUR ANSWER:  ____Admit  ____Deny
   
   CLARIFICATION: ____________________________________________________________
7. Admit that the burden of proof in tax collection actions may only be shifted from the government to the person who is the target of the collection if that person is a “taxpayer” as defined in 26 U.S.C. §7701(a)(14) and 26 U.S.C. §1313.

YOUR ANSWER: ____Admit ____Deny

CLARIFICATION: __________________________________________

8. Admit that a person who claims to be a “nontaxpayer” under penalty of perjury and who refutes all evidence that he is a “taxpayer” under penalty of perjury may not be imputed as having the burden of proof pursuant to 26 U.S.C. §7491 to prove nonliability in any tax collection action.

TITLE 26 > Subtitle E > 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.

(b) Use of statistical information on unrelated taxpayers
In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

(c) Penalties
Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.


YOUR ANSWER: ____Admit ____Deny

CLARIFICATION: __________________________________________

9. Admit that no provision of the Internal Revenue Code may be cited against or create a legal duty for anyone who is a “nontaxpayer”.

"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."

[Long v. Rasmussen, 281 F. 236 (1922)]
“Revenue Laws relate to taxpayers and not to non-taxpayers. The latter are outside their scope. No procedures
are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course
of law. With them[non-taxpayers] Congress does not assume to deal and they are neither of the subject nor of
the object of federal revenue laws.”

[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: ________________________________________________________________

10. Admit that presumption is neither evidence nor may it lawfully be used as a substitute for evidence without violating
due process of law.

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


YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: ________________________________________________________________

11. Admit that conclusive presumptions which prejudice or injure constitutionally protected rights are a violation of due
process of law.

(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]

[Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]

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.

‘It is apparent,’ this court said in the Bailey Case ( 219 U.S. 239, 31 S. Ct. 145, J51) ‘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)]

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: ________________________________________________________________

12. Admit that one of the main purposes of due process of law is to remove all presumptions which might prejudice rights
from the consideration of the factfinder(s).

YOUR ANSWER: ___Admit ___Deny

CLARIFICATION: ________________________________________________________________

13. Admit that “prima facie law”, such as the Internal Revenue Code, is “presumed to be law” for the United States
exclusively applicable to the District of Columbia pursuant to 28 U.S.C. §1366.
“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.”


YOUR ANSWER: _____Admit _____Deny

CLARIFICATION: ____________________________

14. Admit that once “prima facie law” is challenged, the moving party asserting the authority of that specific law has a duty to prove that the provisions he is citing as authority are positive law, by providing evidence of enactment into positive law from the Statutes at Large.

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION: ____________________________

15. Admit that in the absence of non-prima facie evidence that a statute cited as authority is “positive law” (see 1 U.S.C. §204(a)) or that Congress has expressly extended authority of said law to the states (4 U.S.C. §72), then any said statute may not be cited against a person domiciled in a state of the Union whose rights are protected by the Constitution because this would be an abuse of presumption to prejudice constitutionally guaranteed rights.

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

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION: ____________________________

16. Admit that a violation of due process of law produces a void judgment of no force and effect.

“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 Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)]

YOUR ANSWER: _____Admit _____Deny

CLARIFICATION: ____________________________

17. Admit that all doubt must be resolved in favor of the person against whom a tax is laid:

“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)]

EXHIBIT: _______
"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 US 303, pp. 314 - 315, 82 L.Ed. 858. (1938)]

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

18. Admit that evidence used in determining liability or a legal duty in any tax collection proceeding must follow the Federal Rules of Evidence.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

19. Admit that evidence which is not authenticated with a perjury statement or a testimonial oath is not admissible in any administrative proceeding for use as evidence of liability, pursuant to 26 U.S.C. §6065.

TITLE 26 > Subtitle E > CHAPTER 61 > Subchapter A > PART IV > § 6065

§6065. Verification of returns

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

20. Admit that information returns submitted to the IRS pursuant to 26 U.S.C. §6041 must be signed by the submitter under penalty of perjury in order to be used as evidence of the receipt of taxable earnings.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

21. Admit that with the exception of IRS forms W-2G and W-3G, none of the information returns require a signature under penalty of perjury. This includes IRS forms 1098, 1099, 1042-S, K-1.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

22. Admit that because of the foregoing, all information returns except the W-2G and W-3G are hearsay evidence that is not admissible under the Federal Rules of Evidence and which essentially amount to “hearsay evidence” excludible under the Hearsay Rule, Federal Rule of Evidence 802.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________

23. Admit that the IRS has not authority to create a Substitute For Return or Automated Substitute For Return for IRS forms 1040, 1040EZ, 1040A, 1040NR, 1040NR-EZ, etc.

YOUR ANSWER: ____Admit  ____Deny

CLARIFICATION:________________________________________________________________________
Acknowledgment:

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:________________________
