

# ***REASONABLE BELIEF ABOUT INCOME TAX LIABILITY***



***"For where envy and self-seeking exist, confusion and every evil thing are there. But the wisdom that is from above is first pure, then peaceable, gentle, willing to yield, full of mercy and good fruits, without partiality and without hypocrisy."***  
[James 3:16-17, Bible, NKJV]

***"For there are many insubordinate, both idle talkers and deceivers [Form #05.014. . .] . . .whose mouths must be stopped, who subvert whole households, teaching things which they ought not, for the sake of dishonest gain. One of them, a prophet of their own, said, "Cretans are always liars, evil beasts, lazy gluttons." This testimony is true. Therefore rebuke them sharply, that they may be sound in the faith, not giving heed to Jewish fables and commandments of men who turn from the truth [Form #05.047]. To the pure all things are pure, but to those who are defiled and unbelieving nothing is pure; but even their mind and conscience are defiled. They profess to know God, but in works they deny Him, being abominable, disobedient, and disqualified for every good work."***  
[Titus 1:10-16, Bible, NKJV]

***"Ignorance more frequently begets confidence [and presumptions] than does knowledge."***  
[Charles Darwin (1809-1882) 1871]

***"He who knows nothing is closer to the truth than he whose mind is filled with falsehoods and errors."***  
[Thomas Jefferson]

"Most people think they know the truth. However, in reality, they only think they know and are merely PRESUMING what cannot be proven with legally admissible evidence consistent with the rules of evidence. It is not until they realize:

1. What constitutes legal evidence and
2. That there is no evidentiary or factual basis for what they THINK they know .

. . .that you they can ever even have a hope of learning or knowing or living the REAL truth. Until they realize this fallacy and self-deception and question absolutely everything they think they know by demanding and seeking evidence to prove it, they will remain prisoners of their own ignorance and unfounded presumptions. They will remain vassals and slaves of an elite class who DO know this truth. These uninformed and false and unconstitutional presumptions are created usually by untrustworthy and MALICIOUS government propaganda disseminated to enrich and empower a secret elite. These elite are secretive because they can't allow these truths to be widely known for fear of destroying the source of all of their power. Until these presumptions are forcefully and relentlessly challenged and the government is mandated to satisfy the burden of proof that what they claim is factually provable with evidence, they will serve as 'faith' that forms the basis for a state sponsored religion that worships governments and civil rulers instead of the true and living God. That religion is exhaustively proven and documented in Socialism: The New American Civil Religion, Form #05.016." [SEDM]

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"For the mystery of lawlessness [GOVERNMENT anarchy] is already at work; only He [God] who now restrains will do so until He is taken out of the way. And then the lawless one [Satan] will be revealed, whom the Lord will consume with the breath of His mouth and destroy with the brightness of His coming. The coming of the lawless one [Satan] is according to the working of Satan, with all power, signs, and lying wonders, and with all unrighteous deception among those who perish, because they did not receive the love of the truth, that they might be saved [don't be one of them!]. And for this reason God will send them strong delusion [from their own government], that they should believe a lie, that they all may be condemned who did not believe the truth but had pleasure in unrighteousness."  
[2 Thess. 2:3-17, Bible, NKJV]

"Believing [PRESUMING without checking the facts and evidence] is easier than thinking. Hence so many more believers than thinkers."  
[Bruce Calvert]

**"The power to create presumptions is not a means of escape from constitutional restrictions."**  
[Bailey v. Alabama, 219 U.S. 219, 238, et seq., 31 S.Ct. 145; Manley v. Georgia, 279 U.S. 1, 5-6, 49 S.Ct. 215]

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

"What luck for rulers that men do not think"  
[Adolf Hitler]

"And in their covetousness (lust, greed) they will exploit you with false (cunning) arguments [“words of art” that advance FALSE presumptions]. From of old the sentence [of condemnation] for them has not been idle; their destruction (eternal misery) has not been asleep."  
[2 Peter 2:3, Bible, Amplified Edition]

"There is nothing so powerful as truth, and often nothing so strange."  
[Daniel Webster]

"Prejudices, it is well known, are most difficult to eradicate from the heart whose soil has never been loosened or fertilized by education; they grow there, firm as weeds among stones. "

*[Charlotte Bronte]*

*“The significant problems we face cannot be solved at the same level of thinking we were at when we created them.”*  
*[Albert Einstein]*

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# 1 Introduction

Those who are interested in the federal income tax issue and act upon their beliefs occasionally get into trouble, typically by being indicted for some alleged income tax crime. Of course when they are required to put forward a legal defense before the IRS or the Department of Justice, they must not only have the ability to testify but they also need to be prepared to offer documentary evidence which supports their beliefs. However, too often when attorneys enter the picture to help them, they find that many people simply have not documented everything upon which they relied. Frequently, these people have not kept the most important documents they studied and relied upon, which thus requires work in locating those particular items. This short memo explains how important it is to keep the books, documents, cases and other "reliance" materials you have studied, especially if that material constitutes an admission made by the government. It also explains the concept of "willfulness" and identifies the legal foundations upon which to base a reasonable informed belief about one's lack of an income tax liability.

What constitutes a "reasonable belief" and how to develop one is therefore the subject of this article. Reasonable belief is important because:

1. All income tax crimes have "[willfulness](#)" as a prerequisite.
2. A person who has a reasonable belief that they are not "[liable](#)" and who can explain and defend it forcefully cannot "willfully" violate any tax law.
3. If the belief is not only reasonable, but also substantiated by what the law and the courts say on the subject, then the person's beliefs are also difficult to challenge in a court setting as well.

What most Americans consider to be "reasonable belief" on the subject of taxation is quite contrary to what a court, tax attorney, or a jury would consider "reasonable". Most of this disparity results from the vacuum of coverage relating to legal subjects in the public school system. Those who rely on "best industry practice" or on what most people "assume" or "presume" on this subject are building their house on sand and eventually will be victimized for their presumptuousness.

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

Before we can therefore come to a reasonable, court-defensible assurance that what we believe is not only true, but is also confirmed by what the law actually says, we must therefore take some time to learn what our legal system says about the basis for such a belief. This memorandum of law will attempt to do this. It will also establish what we call a "reliance defense", which is simply facts and legally admissible evidence upon which to base a reasonable belief about either state or federal tax liability.

## 2 Court authorities on what constitutes a reasonable belief

We believe that whether someone is "subject" and a "taxpayer" depends on whether they have government property in their possession or are exercising government privileges, which are synonymous. You can BE a "taxpayer" without KNOWING you are a "taxpayer". Below is an example:

*We find that petitioners did not make a good-faith effort to ascertain their 2012 tax liability correctly. Petitioner had operated his insurance-sales business for 25 years, and he received commission income annually. He received \$35,703 of commission income during 2012, yet he inexplicably reported only 12% of this sum. His alleged nonreceipt of the Forms 1099-MISC is not a defense; many taxpayers receive taxable income for which Forms W-2 and Forms 1099-MISC are not provided, but they are nevertheless obligated to report such income. See, e.g., Ashmore v. Commissioner, T.C. Memo. 2016-36, at \*15 (Form W-2); Dennis v. Commissioner, T.C. Memo. 1997-275, 73 T.C.M. (CCH) 3061, 3063-3064 (Form 1099-MISC); Du Poux v. Commissioner, T.C. Memo. 1994-448, 68 T.C.M. (CCH) 667 (Forms W-2 and 1099-MISC). Had petitioner kept accurate records of his business income and expenses, which section 6001 required him to do, non-receipt of the Forms 1099-MISC would not have mattered.*  
[Sweeney v. Comm'r of Internal Revenue, T.C. Summary Opinion 2016-32, at \*7-8 (U.S.T.C. July 5, 2016)]

Your earnings are taxable and/or reportable If the monies you receive are connected to a "privilege". By "privileged" we mean:



1. You claim a CIVIL STATUTORY privileged status, such as “citizen” or “resident” upon whom the tax is imposed in 26 C.F.R. §1.1-1(a). All those claiming these privileged statuses are public officers in the national and not state government as we prove in Form #05.008. .OR
2. You receive government payments derived from the “United States” federal corporation and therefore a “source within the United States\*\*”. By “United States” we mean the corporation and NOT the geographical “United States” defined in 26 U.S.C. §7701(a)(9) and (a)(10). .OR
3. You receive payments from a federal instrumentality such as a corporation. See *Brushaber v. Union Pacific Railroad*, 240 U.S. 1 (1916).
4. You are doing business on federal territory in the statutory geographical “United States\*\*” (federal zone) defined in 26 U.S.C. §7701(a)(9) and (a)(10).

All of the above activities are executed effectively WITHIN the United States federal corporation, and thus, are INTERNAL to the “United States”. This is why the IRS is called the INTERNAL Revenue Service. They all deal with GOVERNMENT property of some kind that is subject to regulation and control by Article 4, Section 4 of the United States constitution as we exhaustively prove in Form #04.404. More on the nature of the IRS can be found in:

*Origins and Authority of the Internal Revenue Service*, Form #05.005  
<https://sedm.org/Forms/FormIndex.htm>

## **2.1 Reasonable belief about whether you ARE a “taxpayer” who is “subject”**

Information return reports constitute testimony of a witness not only about what monies you received, but ALSO the CIVIL STATUS of the recipient. These reports are filed by legally ignorant payroll clerks not educated in the law. The courts call these reports “lay legal conclusions” that are inadmissible as evidence, EVEN if they are signed under penalty of perjury. Lay legal conclusions would also include those made by IRS agents, who seldom are trained in the law and merely operate on written procedures that their own Internal Revenue Manual say are unreliable and cannot be depended upon.

*“lay legal conclusions [such as information returns] are inadmissible in evidence”*  
*[Christiansen v. National Savings and Trust Co., 683 F.2d. 520, 529 (D.C. Cir. 1982)]*

*Generally, neither an expert witness nor a lay person may give testimony that amounts to a legal conclusion. Berkeley Inv. Group, Ltd. v. Colkitt, 455 F.3d. 195, 217 (3d Cir. 2006); Hogan v. American Telephone Telegraph, 812 F.2d. 409, 411-12 (8th Cir. 1987) (lay opinion is not helpful if couched as legal conclusion); Christiansen v. National Savings and Trust Co., 683 F.2d. 520, 529 (D.C. Cir. 1982) (“lay legal conclusions are inadmissible in evidence”).*  
*[Langbord v. U.S. Department of Treasury, CIVIL ACTION No. 06-5315, at \*22 (E.D. Pa. July 5, 2011)]*

*In Taxpayer Bill of Rights [TBOR]2 sec. 602, 110 Stat. 1463, Congress required that the Government conduct a reasonable investigation of a disputed information return because of difficulties imposed on a taxpayer by third parties’ filing fraudulent information returns or issuing erroneous returns and refusing to correct the information. H. Rept. 104-506, at 36 (1996), 1996-3 C.B. 49, 84. In any Court proceeding where a taxpayer asserts a reasonable dispute with respect to income reported on a third-party information return and fully cooperates with the IRS, “the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.”[7] Sec. 6201(d). Full cooperation requires informing the IRS of the dispute within a reasonable time. H. Rept. 104-506, *supra* at 36, 1996-3 C.B. at 84. In addition, a taxpayer must provide timely “access to and inspection of all witnesses, information, and documents within the control of the taxpayer”. Sec. 6201(d).*  
*[T.C. Summary Opinion 2009-102 UNITED STATES TAX COURT NICHOLAS AND KERRI A. FITZPATRICK, Petitioners v. COMMISSIONER OF INTERNAL REVENUE, Respondent]*

### **FOOTNOTES:**

*[7] Because sec. 6201(d) applies only to court proceedings, it does not bear directly on the Commissioner’s administrative position, but it does bear directly on his litigation position. As indicated, petitioners are not seeking administrative costs. Thus, we need not decide whether the Commissioner’s position qua administrative position was reasonable. Nevertheless, it is conceivable that a position could be reasonable at the administrative stage but less so at the litigation stage as a result of the sec. 6201 burden of production. Cf. *Huffman v. Commissioner*, 978 F.2d. 1139, 1148 (9th Cir. 1992) [\*14] (the Commissioner’s administrative position, established by the notice of deficiency, was not substantially justified, but his subsequent litigation position was substantially*



justified because in his answer he conceded the unreasonable position), affg. in part, revg. in part on other grounds and remanding [T.C. Memo. 1991-144](#).

## 2.2 Reasonable belief for “taxpayers” who are “subject” to the I.R.C

The section 6662 penalty does not apply to any portion of an underpayment “if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith” with respect to it. Sec. 6664(c)(1). The taxpayer bears the burden of proving reasonable cause and good faith. *Higbee*, 116 T.C. at 446- 447. The decision whether the taxpayer acted with reasonable cause and in good faith is made on a case-by-case basis, taking into account all pertinent facts and circumstances. Sec. 1.6664-4(b)(1), *Income Tax Regs.*

Generally, the most important factor in determining the existence of “reasonable cause” is the taxpayer’s effort to ascertain his or her tax liability correctly. Sec. 1.6664-4(b)(1), *Income Tax Regs.* Reasonable cause can be shown by good-faith reliance on the advice of a qualified tax professional. *Id.* paras. (b)(1), (c). To justify such reliance, “[t]he advice must be based upon all pertinent facts and circumstances.” *Id.* para. (c)(1)(i). Other conditions that may signal reasonable cause and good faith “include an honest misunderstanding of fact or law that is reasonable in light of all the facts and circumstances, including the experience, knowledge, and education of the taxpayer.” *Id.* para. (b)(1).  
[*Sweeney v. Comm’r of Internal Revenue*, T.C. Summary Opinion 2016-32, at \*6-7 (U.S.T.C. July 5, 2016)]

## 3 Law or Religion?

Is the Internal Revenue Code, Subtitles A and C a “law” or a “religion”? Is it PUBLIC law that applies equally to ALL without their consent or PRIVATE law that acquires the “force of law” upon your consent to BECOME a “taxpayer”? The following subsections will answer these questions. For further details on this subject, see:

1. What is “law”?, Form #05.048  
<http://sedm.org/Forms/FormIndex.htm>
2. Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002  
<http://sedm.org/Forms/FormIndex.htm>
3. Socialism: The New American Civil Religion, Form #05.016  
<http://sedm.org/Forms/FormIndex.htm>
4. Requirement for Consent, Form #05.003, Section 9.10: “Public Law” or “Private Law”?  
<http://sedm.org/Forms/FormIndex.htm>
5. Requirement for Consent, Form #05.003, Section 10.6: The Internal Revenue Code is not Public or Positive Law, but Private Law  
<http://sedm.org/Forms/FormIndex.htm>
6. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037  
<http://sedm.org/Forms/FormIndex.htm>

### 3.1 Abuse of Law as Religion<sup>1</sup>

Religion is legally defined as follows:

**“Religion.** Man’s relation to Divinity, to reverence, **worship**, obedience, and **submission to mandates and precepts** of supernatural or superior beings. In its broadest sense includes all forms of **belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments. Bond uniting man to God, and a virtue whose purpose is to render God worship due him as source of all being and principle of all government of things.** *Nikulnikoff v. Archbishop, etc., of Russian Orthodox Greek Catholic Church*, 142 Misc. 894, 255 N.Y.S. 653, 663.”  
[*Black’s Law Dictionary, Sixth Edition*, p. 1292]

According to the above definition, every system of religion is based on:

1. The existence of a superior being.
2. Faith in the superior being.
3. Obedience to the laws of that superior being. This is called “worship”.
4. The nature of the superior being as the basis for the “government of all things”.

<sup>1</sup> Adapted from: *Socialism: The New American Civil Religion*, Form #05.016, Section 11.2.2; <http://sedm.org/Forms/FormIndex.htm>.

1 5. Supreme allegiance to the will of the superior being.

2 Principles of law can be abused to create a counterfeit state-sponsored religion which imitates God's religion in every  
3 particular. To see the full extent of how this has been done and all the symptoms, see Socialism: The New American Civil  
4 Religion, Form #05.016, Section 14.2. Right now, we will summarize how the above elements of religion can be "simulated"  
5 through abuse of the legal system by your covetous public servants:

- 6 1. Government franchises can be created which make those in government superior in relation to everyone else for all those  
7 who participate. People are recruited to join the church by being compelled to participate in these franchises because  
8 they are deprived of basic necessities needed to survive if they don't.
- 9 2. "Presumption" can be used as a substitute for religious faith. A presumption is simply a belief that either is not or cannot  
10 be supported by legally admissible evidence.
- 11 3. Fear of punishments administered under the "presumed" but not actual authority of law can be used to ensure obedience  
12 toward and therefore "worship" of the superior being.
- 13 4. The superior being is the government, and thereby that superior being is the basis for the "government of all things".
- 14 5. Allegiance to the government is supreme because very strong punishments follow for those who refuse obedience  
15 because their OTHER God forbids it.

16 This section will focus on steps 1 and 2 above, which is how presumption and law are abused to create a religion that at least  
17 "appears" to most people to be a legitimate government function.

18 Before you can fool people using the process above, you must first dumb them down from a legal perspective. This is done  
19 by removing all aspects of legal education from the public school and junior college curricula so that only "priests" of a civil  
20 religion called "attorneys" will even come close to knowing the truth about what is going on. This will bring the population  
21 of people who know down to a small enough level that they can easily be targeted and controlled by those in the government  
22 who license and regulate them without the need for police power, guns, or military force. The legal field is so lucrative and  
23 most lawyers are so greedy that economic coercion alone is sufficient to keep the limited few who know the truth "gagged"  
24 from sharing it with others, lest their revenues dry up.

25 *"The mouth which eats does not talk."*  
26 *[Chinese Proverb]*

27 After you have dumbing down the masses, the sheep in the general public are easy to control through carefully targeted  
28 deception and propaganda for which the speakers are insulated from liability for their LIES.

- 29 1. The IRS has given itself free reign to literally lie to the public with impunity in their publications:

30 *Internal Revenue Manual*  
31 [Section 4.10.7.2.8 \(05-14-1999\)](#)  
32 *IRS Publications*

33 *IRS Publications, issued by the Headquarters Office, explain the law in plain language for taxpayers and their*  
34 *advisors. They typically highlight changes in the law, provide examples illustrating Service positions, and include*  
35 *worksheets. **Publications are nonbinding on the Service and do not necessarily cover all positions for a given***  
36 ***issue. While a good source of general information, publications should not be cited to sustain a position.***

- 37 2. IRS allows its agents to use pseudonyms other than their real legal name so that they are protected from accountability  
38 if they misrepresent the truth to the public. See:

[Notice of Pseudonym Use and Unreliable IRS Records](#), Form #04.206  
<http://sedm.org/Forms/FormIndex.htm>

- 39 3. Federal courts have given the IRS license to lie on their phone support, and in person. See:

Federal Courts and the IRS' Own IRM Say the IRS is NOT RESPONSIBLE for Its Actions or its Words or for  
Following Its Own Written Procedures, Family Guardian Fellowship  
<http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>

- 40 4. Even the federal courts themselves routinely lie with impunity, because they are accountable to no one and the IRS  
41 doesn't even listen to the courts below the U.S. Supreme Court anyway: Judges control the selection of grand juries and  
42 they abuse this authority to choose sheep who will do what they are told and never indict the judge himself because they  
43 are too ignorant, lazy, and uneducated to think for themselves and take a risk.

1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.

2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.

3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.

Now that those in government who run the system have a license to lie with impunity, next you pass a “franchise code” that has the FORM and APPEARANCE of law, but which actually ISN’T law. The U.S. Supreme Court referred to such a “code”, when it said:

*“To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.*

*Nor is it taxation. ‘A tax,’ says Webster’s Dictionary, ‘is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.’ ‘Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.’ Cooley, Const. Lim., 479.”*  
[Loan Association v. Topeka, 20 Wall. 655 (1874) ]

In that sense, franchise codes become a vehicle for propaganda focused solely on propagating false presumptions and beliefs about the liabilities of the average American toward the government. To the legal layman and the average American however, such a ruse will at least “look” like law, but those who advance it know or at least SHOULD know that it isn’t. If they don’t know, they are victims of propaganda and mental programming in law school and government publications. Only a select few “priests” of the civil religion at the top of the civil religion who set up the fraud know the truth, and these few people are so well paid that they keep their mouths SHUT. This misrepresentation of franchises as “law” in a classical sense is exhaustively described in:

What is “law”?, Form #05.048  
<https://sedm.org/Forms/FormIndex.htm>

There are many ways to create a state sponsored “bible” that looks like law and has the forms of law. For instance, you can:

1. Create a franchise agreement that “activates” or becomes legally enforceable only with your individual and explicit consent in some form. In that sense, the code which embodies this private law behaves just like a state sponsored bible: It only applies to those who BELIEVE they are subject to it. The self-serving deception and propaganda spread by the legal profession and the government are the main reason that anyone “believes” or “presumes” that they are subject to it.
2. Codify the codes pertaining to a subject into a single title in the U.S. Code and then REPEAL the whole darned thing, but surround the language with so much subtle legalese that the REPEAL will be undetectable to all but the most highly trained legal minds.
3. Enact the code into something other than “positive law”. This makes such a code “prima facie evidence”, meaning nothing more than a “presumption” that is NOT admissible as evidence of an obligation in a court of law.

*“Prima facie. Lat. At first sight on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. State ex rel. Herbert v. Whims, 68 Ohio.App. 39, 38 N.E.2d. 596, 499, 22 O.O. 110. See also Presumption.”*  
[Black’s Law Dictionary, Sixth Edition, p. 1189]

Now let's apply the above concepts to show how ALL THREE have been employed to create a civil religion of socialism using the Internal Revenue Code.

1 First, we establish that the Internal Revenue Code is an excise tax which applies to those engaged in an activity called a "trade  
2 or business". 26 U.S.C. §7701(a)(26) defines this activity as "the functions of a public office". The nature of this franchise  
3 is exhaustively described in the memorandum below:

*The "Trade or Business" Scam*, Form #05.001

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

4 Even the courts recognize that the Internal Revenue Code is a private law franchise agreement, when they said that it only  
5 pertains to franchisees called "taxpayers":

6 *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers,*  
7 *and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for nontaxpayers, and no*  
8 *attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not*  
9 *assume to deal, and they are neither of the subject nor of the object of the revenue laws..."*  
10 *[Long v. Rasmussen, 281 F. 236 (1922)]*

11 *"Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and*  
12 *not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the*  
13 *Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and*  
14 *no attempt is made to annul any of their Rights or Remedies in due course of law."*  
15 *[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]*

16 Based on the above article, the nature of the Internal Revenue Code as a franchise and an excise tax is carefully concealed by  
17 both the IRS and the courts in order so that people will not know that their express consent is required and exactly how that  
18 consent was provided. If they knew that, they would all instantly abandon the activity and cease to be "taxpayers" or lawful  
19 subjects of IRS enforcement.

20 Next, we note that the entire Internal Revenue Code was REPEALED in 1939 and has never since been reenacted. You can  
21 see the amazing evidence for yourself right from the horse's mouth below:

*Revenue Act of 1939*, 53 Stat. 1, Exhibit #05.027

<http://sedm.org/Exhibits/ExhibitIndex.htm>

22 Below is the text of the repeal extracted from the above:

23 *Internal Revenue Code of 1939, Chapter 2, 53 Stat 1*

24 **Sec. 4. Repeal and Savings Provisions.**—(a) *The Internal Revenue Title, as hereinafter set forth, is intended to*  
25 *include all general laws of the United States and parts of such laws, relating exclusively to internal revenue, in*  
26 *force on the 2d day of January 1939 (1) of a permanent nature and (2) of a temporary nature if embraced in said*  
27 *Internal Revenue Title. In furtherance of that purpose, all such laws and parts of laws codified herein, to the*  
28 *extent they relate exclusively to internal revenue, are repealed, effective, except as provided in section 5, on the*  
29 *day following the date of enactment of this act.*

30 *(b) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or*  
31 *commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue,*  
32 *and may be enforced in the same manner, as if said repeal had not been made; nor shall any office, position,*  
33 *employment board, or committee, be abolished by such repeal, but the same shall continue under the pertinent*  
34 *provisions of the Internal Revenue Title.*

35 *(c) All offenses committed, and all penalties or forfeitures incurred under any statute hereby repealed, may be*  
36 *prosecuted and punished in the same manner and with the same effect as if this act had not been passed.*

37 *Sec. 5. Continuance of Existing Law.*—Any provision of law in force on the 2d day of January 1939 corresponding  
38 *to a provision contained in the Internal Revenue Title shall remain in force until the corresponding provision*  
39 *under such Title takes effect.*

40 *[Revenue Act of 1939, 53 Stat. 1, Section 4, emphasis added]*

41 The above repeal is also reflected in 26 U.S.C. §7851:

42 [TITLE 26](#) > [Subtitle F](#) > [CHAPTER 80](#) > [Subchapter B](#) > § 7851  
43 [§ 7851. Applicability of revenue laws](#)

(a) General rules

Except as otherwise provided in any section of this title—

(1) Subtitle A

(A) Chapters 1, 2, 4, [1] and 6 of this title [these are the chapters that make up Subtitle A] shall apply only with respect to taxable years [basically calendar years] beginning after December 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1 (except sections [143](#) and [144](#)) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

Note the key word “**and ending after the date of enactment of this title**”. That word “and” means that the taxable year must both begin after December 31, 1953 AND end after enactment of the title into law. The Internal Revenue Code was enacted into law on August 16, 1954.

[Code of Federal Regulations]  
[Title 26, Volume 1]  
[Revised as of April 1, 2006]  
From the U.S. Government Printing Office via GPO Access  
[CITE: 26CFR1.0-1]  
[Page 5-9]  
TITLE 26--INTERNAL REVENUE  
CHAPTER 1--INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY  
PART 1\_INCOME TAXES--Table of Contents  
Sec.1.0-1 Internal Revenue Code of 1954 and regulations.

(a) Enactment of law.

The Internal Revenue Code of 1954 which became law upon enactment of Public Law 591, 83d Congress, approved August 16, 1954, provides in part as follows: . . .

Therefore, only calendar years BOTH beginning after December 31, 1953 AND ending after August 16, 1954 are included, which means only in the calendar year 1954 is the Internal Revenue Code, Subtitle A enforceable. If they had meant otherwise and had meant the code to apply to all years beyond 1954, they would have said “OR” rather than “AND”.

Next, we will look at how the Internal Revenue Code consists of nothing more than simply a “presumption” that is not admissible as evidence in any legal proceeding. 1 U.S.C. §204 lists all of the titles within the U.S. Code. Of Title 26, it says that Title 26, the Internal Revenue Code, is “prima facie evidence”:

[1 U.S.C. §204: Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements](#)

Sec. 204. - Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each

State, Territory, or insular possession of the United States -

(a) United States Code. -

[1] The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie [by presumption] the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included:

[2] Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

Of “prima facie”, Blacks’ Law Dictionary says:

1       *"Prima facie. Lat. At first sight on the first appearance; on the face of it; so far as can be judged from the first*  
2       *disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. State ex*  
3       *rel. Herbert v. Whims, 68 Ohio.App. 39, 38 N.E.2d. 596, 499, 22 O.O. 110. See also Presumption."*  
4       *[Black's Law Dictionary, Sixth Edition, p. 1189]*

5       1 U.S.C. §204 establishes a presumption and it is a statute. That means it establishes a "statutory presumption". The U.S.  
6       Supreme Court has held that "statutory presumptions" are unconstitutional and that they are superseded by the presumption  
7       of innocence:

8       *"The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic*  
9       *and elementary, and its enforcement lies at the foundation of the administration of our criminal law."*  
10       *[Coffin v. United States, 156 U.S. 432, 453 (1895)]*  
11

12       *"It is apparent,' this court said in the Bailey Case ( 219 U.S. 239, 31 S. Ct. 145, 151) 'that a constitutional*  
13       *prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can*  
14       *be violated by direct enactment. The power to create presumptions is not a means of escape from*  
15       *constitutional restrictions."*  
16       *[Heiner v. Donnan, 285 U.S. 312 (1932)]*

17       Evidence that is "prima facie" means simply a presumption. The following rules apply to presumptions:

- 18       1. The accused is presumed to be innocent until proven guilty with evidence.  
19       2. Only evidence and facts can convict a person.

20       "guilt must be proven by legally obtained evidence"

- 21       3. A "presumption" is not evidence, but simply a belief akin to a religion.

22       *A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found*  
23       *or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or*  
24       *rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence*  
25       *or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.*

26       *In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of*  
27       *Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with*  
28       *evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the*  
29       *risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. Federal*  
30       *Evidence Rule 301.*

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

- 34       4. Beliefs and opinions are NOT admissible as evidence in any court.

35       *Federal Rules of Evidence*  
36       *Rule 610. Religious Beliefs or Opinions*

37       *Evidence of the beliefs or opinions of a witness on matters of religion is not admissible* for the purpose of  
38       *showing that by reason of their nature the witness' credibility is impaired or enhanced.*  
39       *[SOURCE: <http://www.law.cornell.edu/rules/fre/rules.htm#Rule610>]*

- 40       5. Presumptions may not be imposed if they injure rights protected by the Constitution:

41       *(1) [8:4993] Conclusive presumptions affecting protected interests: A conclusive presumption may be defeated*  
42       *where its application would impair a party's constitutionally-protected liberty or property interests. In such*  
43       *cases, conclusive presumptions have been held to violate a party's due process and equal protection*  
44       *rights.* [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974)  
45       *414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit*  
46       *violates process]*  
47       *[Federal Civil Trials and Evidence, Rutter Group, paragraph 8:4993, p. 8K-34]*

- 48       6. Presumptions are the OPPOSITE of "due process" of law and undermine and destroy it:



*"If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law."*

You can read more about the above in our memorandum below:

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

Consequently, it is unconstitutional for a judge to allow any provision of the Internal Revenue Code to be cited as legal evidence of an obligation. The only thing that can be cited is the underlying revenue statutes from the Statutes At Large, because the code itself is a presumption. That approach doesn't work either, however, because 53 Stat. 1, Section 4 above repealed those statutes also. Therefore, there is no law to which is admissible as evidence of any obligation and therefore:

1. The entire Internal Revenue Code is nothing but a system of beliefs and presumptions unsupported by evidence.
2. Any judge that elevates such a presumption to the level of evidence is enacting law into force, and no judge has legislative powers. This is a violation of the separation of powers doctrine.
3. All judicial proceedings involving the Internal Revenue Code amount to nothing more than church worship services or inquisitions for those who "believe" the code applies to them.
4. If the judge allows the government to cite a provision of the I.R.C. against a private litigant without providing legally admissible evidence from the Statutes at Large which ARE positive law, he is engaging in an act of religion and belief without any evidentiary support and which CANNOT be supported.
5. Anyone criminally convicted under any provision of the Internal Revenue Code is nothing more than a political prisoner or a person who is a heretic against the state sponsored religion.

The mechanisms for the state sponsored religion are subtle, but all the elements are there. We will examine all of these elements in the following chapters because they are extensive.

The subject of the legal definition of "law" is further discussed in:

*What is "law"?*, Form #05.048  
<https://sedm.org/Forms/FormIndex.htm>

### **3.2 Two methods of creating "obligations" clarify the definition of "law"**

The legal definition of "law" can be easily discerned by examining HOW "obligations" are created. The California Civil Code, Section 1427 defines what an obligation or duty is:

*California Civil Code - CIV*  
*DIVISION 3. OBLIGATIONS [1427 - 3272.9]*  
*( Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14. )*  
***PART 1. OBLIGATIONS IN GENERAL [1427 - 1543] ( Part 1 enacted 1872. )***  
***TITLE 1. DEFINITION OF OBLIGATIONS [1427 - [1428.]] ( Title 1 enacted 1872. )***

***1427. An obligation is a legal duty, by which a person is bound to do or not to do a certain thing.***

*(Enacted 1872.)*

The California Civil Code and California Code of Civil Procedure then describe how obligations may lawfully be created. Section **22.2** of the California Civil Code ("CCC") shows that the **common law** shall be the rule of decision in all the courts of this State. CCC section **1428** establishes that obligations are legal duties arising either from contract of the parties, or the operation of law (nothing else). CCCP section **1708** states that the obligations imposed by operation of law are only to abstain from injuring the person or property of another, or infringing upon any of his or her rights.

*California Civil Code - CIV*  
***DEFINITIONS AND SOURCES OF LAW***  
*(Heading added by Stats. 1951, Ch. 655, in conjunction with Sections 22, 22.1, and 22.2 )*

<sup>2</sup> Source: *What is "law"?*, Form #05.048, Section 4; <https://sedm.org/Forms/FormIndex.htm>.



1 22.2. The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the  
2 United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State. (Added  
3 by Stats. 1951, Ch. 655.)

4 -----  
5 California Civil Code – CIV  
6 DIVISION 3. OBLIGATIONS [1427 - 3272.9]  
7 (Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14. )  
8 PART 1. OBLIGATIONS IN GENERAL [1427 - 1543] ( Part 1 enacted 1872. )  
9 TITLE 1. DEFINITION OF OBLIGATIONS [1427 - [1428.]] (Title 1 enacted 1872.)

10 [1428.] Section Fourteen Hundred and Twenty-eight. An obligation arises either from:

11 One — The contract of the parties; or,

12 Two — The operation of law. An obligation arising from operation of law may be enforced in the manner  
13 provided by law, or by civil action or proceeding.

14 (Amended by Code Amendments 1873-74, Ch. 612.)

15 -----  
16 California Civil Code – CIV  
17 DIVISION 3. OBLIGATIONS [1427 - 3272.9]  
18 (Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14. )  
19 PART 3. OBLIGATIONS IMPOSED BY LAW [1708 - 1725]  
20 ( Part 3 enacted 1872. )

21 1708. Every person is bound, without contract, to abstain from injuring the person or property of another, or  
22 infringing upon any of his or her rights.

23 (Amended by Stats. 2002, Ch. 664, Sec. 38.5. Effective January 1, 2003.)

24 The phrase “operation of law” uses the word “law” and therefore implies REAL law. REAL law in turn consists of ONLY  
25 the common law and the Constitution, as we prove in this document.

26 Based on the above provisions of the California Civil Code, when anyone from the government seeks to enforce a “duty” or  
27 “obligation”, such as in tax correspondence, they have the burden of proof to demonstrate.

- 28 1. That you expressly consented to a contract with them. This would include:  
29 1.1. Written agreements.  
30 1.2. Trusts.  
31 1.3. Statutory franchises.  
32 2. That “operation of law” is involved. In other words, that you injured a specific, identified flesh and blood person and  
33 that such a person has standing to sue in a civil or common law action. THIS is what we refer to as “law” in this  
34 document.

35 They must meet the above burden of proof with legally admissible evidence and may not satisfy that burden with either a  
36 belief or a presumption. Pursuant to Federal Rule of Evidence 610, neither beliefs or opinions constitute legally admissible  
37 evidence. Likewise, a presumption is not legally admissible evidence for the same reason. We cover why presumptions are  
38 not evidence in:

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

39 In practice, they NEVER can meet the above burden of proof and consequently, you will always win when they send you a  
40 tax collection notice if you know what you are doing and have read this document!

41 The first option above, contracts, is described in:

Government Instituted Slavery Using Franchises, Form #05.030

The first option, meaning contracts, is EXCLUDED from the definition of “law” based on the following.

*Municipal law, thus understood, is properly defined to be “a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong.”*

[...]

*It is also called a rule to distinguish it from a compact or agreement; **for a compact is a promise proceeding from us, law is a command directed to us.** The language of a compact is, “I will, or will not, do this”; that of a law is, “thou shalt, or shalt not, do it.” It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. **In compacts we ourselves determine and promise what shall be done, before we are obliged to do it; in laws, we are obliged to act without ourselves determining or promising anything at all.** Upon these accounts law is defined to be “a rule.”  
[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 4]*

Real “law” is what the above refers to as “a rule of civil conduct”. By that definition, it can only refer to the common law. Why? Because domicile is a prerequisite to enforcing civil STATUTES and it is voluntary and requires consent in some form, as we prove in the following document:

*Why Domicile and Becoming a “Taxpayer” Require Your Consent*, Form #05.002  
<https://sedm.org/Forms/FormIndex.htm>

### **3.3 The Internal Revenue Code: Public Policy and Civil Religion Disguised to LOOK like “law”**

***“To lay, with one hand, the power of the government on the property of the citizen, and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms.***

***Nor is it taxation. ‘A tax,’ says Webster’s Dictionary, ‘is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or State.’ ‘Taxes are burdens or charges imposed by the Legislature upon persons or property to raise money for public purposes.’ Cooley, Const. Lim., 479.”***  
[[Loan Association v. Topeka](#), 20 Wall. 655 (1874) ]

It is our assertion that:

1. The tax codes are so complex and so convoluted that they are unknowable
2. The average American not only has never read the tax codes, but wouldn’t even know where to go to read them.
3. Even if they could find the Internal Revenue Code or their state revenue code, they wouldn’t understand it, because the GOVERNMENT schools very deliberately dumb down the average American by ENSURING that he/she receives no legal training so that they will defer to a satanic priesthood called the legal profession to make all the important decisions and determinations for them.
4. Even most members of the legal profession have no knowledge of the tax codes.

*“We must note here, as a matter of judicial knowledge, that most lawyers have only scant knowledge of tax law.”*  
[*Bursten v. U.S.*, 395 F.2d. 976, 981 (5th Cir., 1968)]

Hence, what we really have on our hands is not a society of law as the Founding Fathers intended, but a “society of men”, a society of PUBLIC POLICY, a Civil Religion, and a society of Political Correctness, not unlike that in Jesus’ time.

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

And WHAT men? A wicked priesthood of government bureaucrats who only care about padding their own pockets and couldn’t care less about your rights or equality under the law. These crooks abuse their authority to manufacture legal ignorance in the government/public school system and then harvest that ignorance when the corporate drones graduate from

the fool academy and enter the work/slave force. The public schools manufacture children in their own corporate image, because all governments are corporations. Hence, all children are indoctrinated to become good public officers within the mother corporation called “taxpayers”. We can hardly be a “society of law” when the average American is FORBIDDEN from learning or reading enough of the law to properly supervise the activities of their SERVANTS in the government.

In order to turn a “society of law” into a “society of men”, such as an oligarchy of judges, judges and prosecutors must substitute THEIR will or that of a covetous policy board called “jurists” in place of what the law actually says:

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

The “will of the people” is the written law. When a judge won’t allow this written law to be discussed in the courtroom, then he is substituting HIS WILL or worst yet, THE JURY’S WILL in place of “their will as thus declared”, meaning THE PEOPLE’S WILL.

To make things even worse, at tax trials, the government makes sure that all of the people on the jury and even on the bench have a criminal conflict of interest in relation to the tax matter at issue, because all of them are “tax consumers” who receive socialist “benefits” that derive directly from the tax at issue. This is a CRIME in violation of 18 U.S.C. §208, 18 U.S.C. §201, 28 U.S.C. §144, and 28 U.S.C. §455.

*“And you shall take no bribe, for a bribe blinds the discerning and perverts the words of the righteous.”*  
[Exodus 23:8, Bible, NKJV]

*“He who is greedy for gain troubles his own house,  
But he who hates bribes will live.”*  
[Prov. 15:27, Bible, NKJV]

*“Surely oppression destroys a wise man's reason.  
And a bribe debases the heart.”*  
[Ecclesiastes 7:7, Bible, NKJV]

Even the judge in every tax trial is targeted for bribes by the I.R.S. Current U.S. law encourages prosecutorial and judicial conflicts of interest, non-neutrality, non-impartiality and corruption of justice in the federal courts. See:

1. 5 U.S.C. §4502 Rewards In General:  
<https://www.law.cornell.edu/uscode/text/5/4502>
2. 5 U.S.C. §4503 Agency Rewards:  
<https://www.law.cornell.edu/uscode/text/5/4503>
3. 5 U.S.C. §4504 Presidential Rewards:  
<http://www.law.cornell.edu/uscode/text/5/4504>
4. 5 U.S.C. §4505 Rewards to former employees:  
<https://www.law.cornell.edu/uscode/text/5/4505>

None of this bribery is new to the IRS. It’s manual on pages 1,229 to 1,291 (Delegation Orders of January 17, 1983) outlines the IRS system of monetary awards . . .

*“of up to and including \$5,000, for any one individual employee or group of employees, in his/her immediate office, including field employees, engaged in National Office projects; and contributions of employees of other government agencies and armed forces members.”*  
[Delegation Orders of January 17, 198, pp. 1229-12913]

This would include U.S. District Court judges and prosecuting U.S. attorneys from the U.S. Dept. of Justice, or should we say INjustice.

Isn’t the most BASIC element of “due process of law” a completely and totally impartial decision maker, meaning an impartial judge AND jury? What do you think that a committee full of tax consumers is going to say when asked whether they like having their tax bill raised and their “benefits” (bribes) reduced by a person who doesn’t consent to participate in their Marxist wealth transfer scheme? Here is the way one informed reader puts it:

The nation is divided into those who work hard for the benefit of others, and the others who are hardly working  
- and enjoy those benefits. That is inequitable, and should not be.

But as long as the electorate is composed of a majority of takers, the givers won't prevail AND the laws on bribery  
will chronically be violated as a matter of public policy.

Now do you know why ALL "income taxes" are in fact statutorily classified as "gifts" in 31 U.S.C. §321? Because they are  
criminal bribes (see 18 U.S.C. §201) to jurists to ILLEGALLY recruit more public officer franchisees called "taxpayers".  
Every time you hear the word "tax", you should think of the word "gift", and then ask yourself how a righteous government  
can throw people in jail for refusing to pay it gifts. Such criminal bribes are also a violation of God's law, which says on the  
subject the following. In America, by the way, EVERYONE is the "king" referred to below, because THE PEOPLE are the  
sovereigns and not their public servants:

"The king establishes the land by justice, but he who receives [socialist] bribes overthrows it."  
[Prov. 29:4, Bible, NKJV]

Avoid Bad Company

"My son, if sinners [socialists, in this case] entice you [with BRIBES and HANDOUTS],  
Do not consent  
If they say, "Come with us,  
Let us lie in wait to shed blood;  
Let us lurk secretly for the innocent [nontaxpayers] without cause;  
Let us swallow them alive like Sheol,  
And whole, like those who go down to the Pit:  
We shall fill our houses with spoil [plunder];  
Cast in your lot among us,  
Let us all have one purse" [THE GOVERNMENT PURSE!]-  
My son, do not walk in the way with them,  
Keep your foot from their path;  
For their feet run to evil,  
And they make haste to shed blood.  
Surely, in vain the net is spread  
In the sight of any bird;  
But they lie in wait for their own blood.  
They lurk secretly for their own lives.  
So are the ways of everyone who is greedy for gain;  
It takes away the life of its owners."  
[Proverbs 1:10-19, Bible, NKJV]

That's right. The civil temple called "government" has been turned into a whorehouse, and people have been duped into  
volunteering to become "taxpayers" are the unwitting whores. The U.S. Supreme Court predicted this corrupt government  
sanctioned bribery scheme when they ruled that the first income tax passed by Congress was unconstitutional:

"Nothing can be clearer than that what the constitution intended to guard against was the exercise by the  
general government of the power of directly taxing persons and property within any state through a majority  
made up from the other states. It is true that the effect of requiring direct taxes to be apportioned among the  
states in proportion to their population is necessarily that the amount of taxes on the individual [157 U.S. 429,  
583] taxpayer in a state having the taxable subject-matter to a larger extent in proportion to its population than  
another state has, would be less than in such other state; but this inequality must be held to have been  
contemplated, and was manifestly designed to operate to restrain the exercise of the power of direct taxation to  
extraordinary emergencies, and to prevent an attack upon accumulated property by mere force of numbers. "

...

"Here I close my opinion. I could not say less in view of questions of such gravity that they go down to the very  
foundations of the government. If the provisions of the Constitution can be set aside by an act of Congress,  
where is the course of usurpation to end?

The present assault upon capital is but the beginning. It will be but the stepping stone to others larger and  
more sweeping, until our political contest will become war of the poor against the rich; a war of growing  
intensity and bitterness."  
[Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429, 158 U.S. 601 (1895).]

1 NOW do you know why the Congress had to corrupt the judiciary by making all judges into “taxpayers” with a criminal  
2 conflict of interest before income taxes could become widespread? It was because once judges are subject to IRS “selective  
3 enforcement” and therefore operate at gunpoint, they will have no choice but to become “taxpayer” recruiters who force  
4 people outside their jurisdiction through trickery, “words of art” and treachery to participate ILLEGALLY in excise taxable  
5 franchises. See the following cases for PROOF that this is going on: O'Malley v. Woodrough, 307 U.S. 277 (1939), Miles  
6 v. Graham, 268 U.S. 501 (1924), United States v. Hatter, 121 S.Ct. 1782 (2001).

7 Thomas Jefferson, our most revered founding father, said that when permanent judges are biased as documented here, it is  
8 the DUTY of jurists to read and judge BOTH the FACTS AND THE LAW, and to leave the judge completely out of the  
9 decision:

10 *"I do not charge the judges with willful and ill-intentioned error; but honest error must be arrested where its*  
11 *toleration leads to public ruin. As for the safety of society, we commit honest maniacs to Bedlam; so judges*  
12 *should be withdrawn from their bench whose erroneous biases are leading us to dissolution. It may, indeed,*  
13 *injure them in fame or in fortune; but it saves the republic, which is the first and supreme law."*  
14 *[Thomas Jefferson: Autobiography, 1821. ME 1:122 ]*

15 *"It is left... to the juries, if they think the permanent judges are under any bias whatever in any cause, to take*  
16 *on themselves to judge the law as well as the fact. They never exercise this power but when they suspect*  
17 *partiality in the judges; and by the exercise of this power they have been the firmest bulwarks of English*  
18 *liberty."*  
19 *[Thomas Jefferson to Abbe Arnoux, 1789. ME 7:423, Papers 15:283 ]*

20 It should therefore also come as no surprise that financially biased judges in tax trials unlawfully and in criminal conspiracy  
21 to violate basic constitutional rights per 18 U.S.C. §241:

- 22 1. Forbid jurists from reading the law while serving on jury duty.
- 23 2. Ban jurists from going into the court's law library to study the law so they can properly supervise the activities of the  
24 judge and government prosecutor.
- 25 3. Forbid defendants from entering into evidence ANY provision of the tax laws that the jury could read.
- 26 4. Will call those who even want to quote what the law says as “frivolous”, which is just another way of saying that the  
27 law and the people's collective will that it represents is IRRELEVANT!

28 The reason judges do all the above is because they want JURISTS to substitute their biased policies in place of what the law  
29 actually says. The innocent and the ignorant and especially the covetous are putty in the hands of tyrants. The Constitution  
30 is a trust document. The Grantors of the trust are the founding fathers. The Beneficiaries are YOU. The Trustees are public  
31 officers like the judge and the government prosecutor. The Constitution and all laws passed to implement it prescribe the  
32 strict limits placed upon Trustees in their official capacity. By refusing to disclose or discuss the law in the courtroom,  
33 indirectly the trustees are refusing to live within their delegation of authority, and making the public trust into a SHAM  
34 TRUST, primarily for their own PRIVATE financial advantage. The U.S. Code identifies what this kind of behavior is. It  
35 calls it COMMUNISM. They say in 50 U.S.C. §841 that the essence of COMMUNISM is an absolute refusal to recognize  
36 or respect the limitations placed upon government workers such as judges and prosecutors by the Constitution or the laws  
37 passed in furtherance of it. Here is what they said which, by the way, constitutes OFFICIAL PUBLIC POLICY:

38 [TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.](#)  
39 [Sec. 841. – Findings and declarations of fact](#)

40 *The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ, and*  
41 *a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a conspiracy*  
42 *to overthrow the [de jure] Government of the United States [and replace it with a de facto government ruled by*  
43 *the judiciary]. It constitutes an authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in*  
44 *collusion] within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges*  
45 *[including immunity from prosecution for their wrongdoing in violation of Article 1, Section 9, Clause 8 of the*  
46 *Constitution] accorded to political parties, but denying to all others the liberties [Bill of Rights] guaranteed by*  
47 *the Constitution [Form #10.002]. Unlike political parties, which evolve their policies and programs through*  
48 *public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs*  
49 *to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are*  
50 *secretly [by corrupt judges and the IRS in complete disregard of, Form #05.014, the tax franchise “codes”,*  
51 *Form #05.001] prescribed for it by the foreign leaders of the world Communist movement [the IRS and Federal*  
52 *Reserve]. Its members [the Congress, which was terrorized to do IRS bidding by the framing of Congressman*  
53 *Trafficant] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike*  
54 *members of political parties, members of the Communist Party are recruited for indoctrination [in the public*  
55 *FOOL system by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are*



1 organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the  
2 assignments given them by their hierarchical chieftains. **Unlike political parties, the Communist Party [thanks**  
3 **to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon**  
4 **that of its members [ANARCHISTS!, Form #08.020].** The Communist Party is relatively small numerically, and  
5 gives scant indication of capacity ever to attain its ends by lawful political means. **The peril inherent in its**  
6 **operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its**  
7 **activities, and its dedication to the proposition that the present constitutional Government of the United States**  
8 **ultimately must be brought to ruin by any available means, including resort to force and violence [or using**  
9 **income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve**  
10 **and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the**  
11 **security of the United States. It is the means whereby individuals are seduced [illegally KIDNAPPED via**  
12 **identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information**  
13 **returns and other PERJURIOUS government forms, Form #04.001], trained to do its bidding [by FALSE**  
14 **government publications and statements that the government is not accountable for the accuracy of, Form**  
15 **#05.007], and directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form**  
16 **#05.030] in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party**  
17 **should be outlawed**

18 Are you, the jury, going to become a “useful idiot” in the hands of communist public officers in this courtroom and recruit  
19 yet another communist by forcing the defendant to join that party and subsidize the bribery scheme? Even the U.S. Supreme  
20 Court held that jurists in this predicament aren’t allowed to rule on matters that would adversely impact private rights that  
21 are UNALIENABLE, and therefore which you cannot lawfully consent to give away to a REAL government. Governments  
22 are created to protect, rather than destroy, tax, or regulate YOUR and MY PRIVATE rights.

23 **“The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political [and**  
24 **LEGAL] controversy, to place them beyond the reach of majorities and officials [AND juries] and to establish**  
25 **them as legal principles to be applied by the courts. One’s right to life, liberty, and property, to free speech, a**  
26 **free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they**  
27 **depend on the outcome of no elections [INCLUDING the “election” of a jury].”**  
28 **[West Virginia Bd. of Ed. v Barnett, 319 U.S. 624, 638 (1943)]**

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

35 And HOW does the life, liberty, and property become subject to the “unlimited control of even the most democratic depository  
36 of power”? By:

- 37 1. Refusing the recognize the LIMITS placed by the law upon the judge, the prosecutor, and the jury by REFUSING to  
38 discuss the law in the courtroom.
- 39 2. By prejudicially presuming that all citizens consented to become public officer franchisees working for the  
40 government, all of whose property has been donated to a public use to procure government “benefits”. The franchise is  
41 called a “trade or business”, which the Internal Revenue Code defines as “the functions of a public office.” All such  
42 presumptions are a violation of due process of law and constitute what the last case above described as “robbery in the  
43 name of taxation” implemented not by LAW, but under the COLOR of law by force and coercion.

44 What Jesus in fact criticized, was that the Pharisees [lawyers] and scribes had substituted PUBLIC POLICY or the  
45 “commandments of men” in place of God’s laws, and turned a society of laws into a society of men, which is exactly the  
46 same thing that is going on in spades today. As a matter of fact, when Pilate couldn’t find fault in Him using the REAL law,  
47 Jesus had to be handed over to an angry unrestrained mob, which is a synonym for a “society of men”, before they would  
48 even consider convicting and crucifying Him of anything. That mob was a law unto itself controlled primarily by emotion  
49 rather than reason. Here is what Jesus said on this predicament:

50 **“Woe to you lawyers! for you have taken away the keys of knowledge [by**  
51 **ABUSING words of art to deceive, and the rules of statutory construction**  
52 **to add things that are not in the definitions]; you did not enter yourselves,**  
53 **and you hindered those who were entering.”**

54 **[Luke 11:52, INTERPRETATION: woe unto lawyers who write a law to deliberately be confusing or who use or**  
55 **interpret a law that is written in a confusing way to hide the truth or deceive people for their own selfish gain]**

1  
2  
3 **“Woe to you, scribes and Pharisees, hypocrites! For you pay tithe of mint and anise and cummin, and have**  
4 **neglected the weightier matters of the law: justice and mercy and faith. These you ought to have done, without**  
5 **leaving the others undone.”**

6  
7  
8  
9  
10 [. . .]

11 **“Woe to you, scribes and Pharisees [lawyers], hypocrites!** For you are like whitewashed tombs which indeed  
12 appear beautiful outwardly, but inside are full of dead men’s bones and all uncleanness.

13  
14 Even so, you also outwardly appear righteous to men, **but inside you are full of hypocrisy and lawlessness.”**  
15 [Jesus (God), talking to the lawyers, Matt. 23:13-36, Bible, NKJV]  
16

17 And when the scribes and Pharisees saw Him eating with **the tax collectors and sinners,**  
18 they said to His disciples, “How is it that He eats and drinks with tax collectors and sinners?”

19  
20 When Jesus heard it, He said to them:

21 **“Those who are well have no need of a physician, but those who are sick [tax collectors]. I**  
22 **did not come to call the righteous, but sinners, to repentance.”**  
23 [Mark 2:16-17, Bible, NKJV]

24 Below is proof of our assertions about the complexity and unknowability of the current tax code from the Washington Post:

25 *“In an exhaustive 18-month review, the President’s Economic Recovery Advisory Board found that the complexity*  
26 *of the nation’s tax laws has increased dramatically in recent years. Lawmakers have changed the code more*  
27 *than 15,000 times since the last major overhaul in 1986. Meanwhile, instruction booklets for the standard Form*  
28 *1040 have swelled from 14 pages to 44 pages last year [2009].”*  
29 [Volcker-led economic panel pushes lawmakers to simplify U.S. tax code, Washington Post, 9-27-2010]  
30

31 Read the above article for yourself:

32 SEDM Exhibit #09.032, Washington Post 8-27-2010 Tax Article  
33 <http://sedm.org/Exhibits/ExhibitIndex.htm>

34 Note to reader what the Founding Fathers said about the above situation:

35 *“It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so*  
36 *voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or*  
37 *revised before they are promulgated, or undergo such incessant changes that no man, who knows what the*  
38 *law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a*  
39 *rule, which is little known, and less fixed?” PUBLIUS.*  
40 [James Madison, Federalist Paper #62]

31 In other words the IRC according to Founding Father James Madison, cannot be law because it has been changed more than  
32 15,000 times since 1986 AD.

33 Also of note are:

34 1. Spreckels Sugar Refining Co. v. McClain, 192 U.S. 397, 24 S.Ct. 376, 418, U.S. 1904:

35 *“Keeping in mind the well-settled rule that the citizen is exempt from taxation unless the same is imposed by*  
36 *clear and unequivocal language, and that where the construction of a tax law is doubtful, the doubt is to be*  
37 *resolved in favor of those upon whom the tax is sought to be laid.”*

38 2. White v. Aronson, 302 U.S. 16, 20 & 21, 58 S.Ct. 95, U.S. 1937:

39 *“Tax laws, like all other laws, are made to be obeyed. They should therefore be intelligible to those who are*  
40 *expected to obey them.”*



Obviously the Internal Revenue Code does not meet any of these basic standards of due process and cannot, by these factors, even be a law.

*The board also found that the profusion of credits, deductions, phaseouts and conflicting eligibility requirements frays the sanity of ordinary taxpayers just as surely as it complicates the calculations of wealthy families and business owners. Tax provisions affecting families and children were among the most frequently cited sources of confusion, the report said.*

*“What the report makes clear is the enormous complexity of the tax law. . . for an ordinary family trying to figure out and make sure they are complying with the laws and taking advantage of benefits offered,” said Harvard economist and former Reagan administration economic adviser Martin Feldstein, who led the board’s effort to develop a series of options for disentangling the code.*

*For example, the report cites more than 20 tax laws that provide incentives to save for retirement and other purposes, such as education and medical expenses, and that together deprive the Treasury of an estimated \$118 billion year. But their sheer number and conflicting rules leave taxpayers confused and intimidated, the report says, raising doubts about their effectiveness.*

There are a few maxims of law that come to mind:

*When you doubt, do not act. Quod dubitas, ne feceris.*

*Where the law is uncertain, there is no law. Ubi jus incertum, ibi jus nullum.*

*It is a miserable state of things where the law is vague and uncertain. Res est misera ubi jus est vagam et invertum.*

*The custom of fixing and refixing (making and annulling) laws is most dangerous. Legis figendi et refigendi consuetudo periculosissima est.*

*It is a miserable slavery where the law is vague or uncertain. Misera est servitus, ubi jus est vagum aut incertum.*

*When the law fails to serve as a rule, almost everything ought to be suspected. Ubi non adest norma legis, omnia quasi pro suspectis habenda sunt.*

Anyone that has ever even tried to understand the code knows that it does not meet any standard of law. So remember that it is obvious who the Father of the Internal Revenue Code is. For he is the father of lies, Satan himself.

*John 8:42 Jesus said unto them, If God were your Father, ye would love me: for I proceeded forth and came from God; neither came I of myself, but he sent me.*

*43 Why do ye not understand my speech? even because ye cannot hear my word.*

*44 Ye are of your father the devil, and the lusts of your father ye will do. He was a murderer from the beginning, and abode not in the truth, because there is no truth in him. When he speaketh a lie, he speaketh of his own: for he is a liar, and the father of it.*

*45 And because I tell you the truth, ye believe me not.*

*46 Which of you convinceth me of sin? And if I say the truth, why do ye not believe me?*

*47 He that is of God heareth God’s words: ye therefore hear them not, because ye are not of God.*

*48 Then answered the Jews, and said unto him, Say we not well that thou art a Samaritan, and hast a devil?*

*49 Jesus answered, I have not a devil; but I honour my Father, and ye do dishonour me.*

*50 And I seek not mine own glory: there is one that seeketh and judgeth.*

See the following for more quotes about taxes:

## 1. Quotes on Taxes, Family Guardian

<http://famguardian.org/Subjects/Taxes/QuotesOnTaxes.htm>

2. Famous Quotes About Rights and Liberty, Form #08.001, Section 13  
<https://sedm.org/Forms/FormIndex.htm>

And a few questions for any current tax slave, ahem, I mean “taxpayer”:

1. Why do you act and file an IRS Form 1040 and sign it UNDER PENALTY OF PERJURY when:
  - 1.1. You KNOW you doubt because the enormous complexity of the tax franchise codes?
  - 1.2. The Bible says it’s a sin to PRESUME you know what to do. See Numbers 15:30, NKJV. Hence the only thing you can do is act and choose based ONLY upon admissible and credible evidence that you have seen with your own two eyes.
  - 1.3. It is a violation of due process of law and sometimes even a CRIME to PRESUME anything in deciding what to do.
  - 1.4. Not even the IRS will guarantee the accuracy of ANY form you sign? The notion of equal protection requires that the GOVERNMENT shall be held to the same standard as the sovereign people, and yet the IRS violates 26 U.S.C. §6065 by not validating the accuracy of all their forms UNDER PENALTY OF PERJURY, just like they hypocritically require of you.
  - 1.5. The IRS plainly says you CANNOT trust ANYTHING on their website or anything they publish or write.
  - 1.6. The courts say you can’t trust anything that a government employee says and can trust ONLY the law.
  - 1.7. You do not know the completed form is true and correct because you CANNOT know it is true and correct without reading a “code” that you have never even read.
  - 1.8. The entire Internal Revenue Code is identified as a HUGE statutory presumption in 1 U.S.C. §204 and the courts have held that statutory presumptions that damage constitutional rights are impermissible? “Prima facie evidence” means it is a PRESUMPTION, not evidence. Presumptions cannot be used as a substitute for evidence without violating due process or law and sanctioning crime and theft by the government.

*"It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions."  
[Bailey v. Alabama, 219 U.S. 219 (1911)]*

2. And if you consider yourself to be an American Patriot why are you paying a tax that feeds Barrack Obama Marxism or Republican Party Fascism when the Internal Revenue Code cannot meet the standards of law established by:
  - 2.1. The United States Supreme Court.
  - 2.2. Founding Father James Madison.
  - 2.3. The Maxims of the Common Law?
3. If you have never even READ any portion of the Internal Revenue Code, and yet you sign tax forms under penalty of perjury stating that you have complied with it, aren’t you in effect participating in a state sponsored religion in which:
  - 3.1. PRESUMPTION that you are complying acts as a substitute for religious “belief” or “faith” and the government becomes your new pagan deity which possesses “supernatural”, meaning UNEQUAL powers in relation to you? Aren’t they supposed to serve you instead of you serving them?
  - 3.2. The judge is the priest.
  - 3.3. The attorneys are the deacons.
  - 3.4. Court is the church building.
  - 3.5. The franchise contract, which is the Internal Revenue Code, is the state sponsored “bible”? There is a very good reason why they call it “code” instead of law: Because it is a franchise quasi-contract that doesn’t acquire the “force of law” without your consent to BECOME a statutory franchisee called a “taxpayer”.
  - 3.6. Worship services are the court hearings?
  - 3.7. “Taxes”, which according to 31 U.S.C. §321(d) are really just “gifts”, act as tithes to this state-sponsored church?

For a description of this religion, read:

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

On this subject, the U.S. Supreme Court has unequivocally held:

*“The “establishment of religion” clause of the First Amendment means at least this: **neither a state nor the Federal Government can set up a church.** Neither can pass laws which aid one [state-sponsored political] religion, aid all religions, or prefer one religion over another. Neither can force or influence a person to go to or to remain away from church against his will, or force him to profess a belief or disbelief in any religion. No*

1 person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or  
2 non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or  
3 institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.  
4 Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious  
5 organizations or groups and vice versa.”  
6 [Everson v. Bd. of Ed., 330 U.S. 1, 15 (1947)]

7 And WHAT exactly is it that this state sponsored religion worships? The Bible tells us that it is a religion that worships men  
8 and the creations of men, rather than God or Truth or Justice:

9 “The idols of the nations are silver and gold,  
10 The work of men’s hands.  
11 They have mouths, but they do not speak;  
12 Eyes they have, but they do not see [evil];  
13 They have ears, but they do not hear [evil];  
14 Nor is there any breath in their mouths.  
15 Those who make them are like them;  
16 So is everyone who trusts in them.”  
17 [Psalm 135:15-18, Bible, NKJV]

18 The Bible also tells us what the reward will be for those who worship the money/mammon false god and idol:

19 “Getting treasures by a lying tongue is the fleeting fantasy of those who seek death.”  
20 [Prov. 21:6, Bible, NKJV]

21 “For the love of money [and even government “benefits”, which are payments] is the root of all evil: which  
22 while some coveted after, they have erred from the faith, and pierced themselves through with many sorrows.  
23 But thou, O man of God, flee these things; and follow after righteousness, godliness, faith, love, patience,  
24 meekness. Fight the good fight of faith, lay hold on eternal life, whereunto thou art also called, and hast professed  
25 a good profession before many witnesses.”  
26 [1 Timothy 6:5-12, Bible, NKJV]

27 If you would like to read the President’s report on tax simplification, see:

SEDm Exhibit #09.033 <a href="http://sedm.org/Exhibits/ExhibitIndex.htm">http://sedm.org/Exhibits/ExhibitIndex.htm</a>
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## 28 **4 Legal Definition of “willfulness”**

29 This section will provide authorities on the meaning of “willfulness”.

### 30 **4.1 Black’s Law Dictionary, Sixth Edition**

31 Black’s Law Dictionary defines “willfulness” as follows:

32 **willful.** Proceeding from a conscious motion of the will; voluntary; knowingly deliberate. Intending the result  
33 which actually comes to pass; designed; intentional; purposeful; not accidental or involuntary.

34 Premeditated; malicious; done with evil intent, or with a bad motive or purpose, or with indifference to the natural  
35 consequence; unlawful; without legal justification.

36 An act or omission is “willfully” done, if done voluntarily and intentionally and with the specific intent to do  
37 something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is  
38 to say, with bad purpose either to disobey or to disregard the law. It is a word of many meanings, with its  
39 construction often influenced to its context. Screws v. United States, 325 U.S. 91, 101, 65 S.Ct. 1031, 1035, 89  
40 L.Ed. 1495.

41 A willful act may be described as one done intentionally, knowingly, and purposely, without justifiable excuse, as  
42 distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently. A willful act differs  
43 essentially from a negligent act. The one is positive and the other negative.  
44 [Black’s Law Dictionary, Sixth Edition, p. 1599]

## 4.2 U.S. Supreme Court

The best source for a definition from the U.S. Supreme Court is the case of *United States v. Bishop*, 412 U.S. 346 (1973):

"The Court, in fact, has recognized that the word 'willfully' in these statutes generally connotes a voluntary, intentional violation of a known legal duty. It has formulated the requirement of willfulness as 'bad faith or evil intent,' *Murdock*, 290 U.S., at 398, or 'evil motive and want of justification in view of all the financial circumstances of the taxpayer,' *Spies*, 317 U.S., at 498, or knowledge that the taxpayer 'should have reported more income than he did.' *Sansone*, 380 U.S., at 353. See *James v. United States*, 366 U.S. 213, 221 (1961); *McCarthy v. United States*, 394 U.S. 459, 471 (1969).

This longstanding interpretation of the purpose of the recurring word "willfully" promotes coherence in the group of tax crimes. In our complex tax system, uncertainty often arises even among taxpayers who earnestly wish to follow the law. The Court has said, "It is not the purpose of the law to penalize frank difference of opinion or innocent errors made despite the [412 U.S. 346, 361] exercise of reasonable care." *Spies*, 317 U.S., at 496. Degrees of negligence give rise in the tax system to civil penalties. The requirement of an offense committed "willfully" is not met, therefore, if a taxpayer has relied in good faith on a prior decision of this Court. *James v. United States*, 366 U.S., at 221-222. Cf. *Lambert v. California*, 355 U.S. 255 (1957). The Court's consistent interpretation of the word "willfully" to require an element of mens rea implements the pervasive intent of Congress to construct penalties that separate the purposeful tax violator from the well-meaning, but easily confused, mass of taxpayers.

Until Congress speaks otherwise, we therefore shall continue to require, in both tax felonies and tax misdemeanors that must be done "willfully," the bad purpose or evil motive described in *Murdock*, supra. We hold, consequently, that the word "willfully" has the same meaning in 7207 that it has in 7206(1). Since the only issue in dispute in this case centered on willfulness, it follows that a conviction of the misdemeanor would clearly support a conviction for the felony. 9 Under these circumstances a lesser-included-offense instruction was not required or proper, for in the federal system it is not the function of the jury to set the penalty. *Berra v. United States*, 351 U.S., at 134-135. [412 U.S. 346, 362]"

[*United States v. Bishop*, 412 U.S. 346 (1973). Emphasis added]

## 4.3 Department of Justice, Criminal Tax Manual

Everything after the line below was extracted from section 40.11 of the Department of Justice Criminal Tax Manual, which you can also view at:

Department of Justice Criminal Tax Manual, 1994 edition  
<http://famguardian.org/Publications/DOJTDCTM/DOJTDCTM.htm>

### 40.11 WILLFULNESS

#### 40.11[1] Generally

Willfulness in protestor cases involves the same underlying principles as it does in any criminal tax case. Accordingly, reference should be made to the discussion of willfulness in the Sections of the *Manual* pertaining to the other various tax offenses. See Section 8.06, *supra*.

Willfulness is the voluntary, intentional violation of a known legal duty. *Cheek v. United States*, 498 U.S. 192, 201 (1991); *United States v. Pomponio*, 429 U.S. 10, 12 (1976); *United States v. Bishop*, 412 U.S. 346, 360 (1973); *United States v. Johnson*, 893 F.2d. 451, 453 (1st Cir. 1990) ; *United States v. Schiff*, 801 F.2d. 108, 110 (2d Cir. 1986), cert. denied, 480 U.S. 272 (1987); *United States v. Snyder*, 766 F.2d. 167, 170-71 (4th Cir. 1985); *United States v. Masat*, 948 F.2d. 923, 931 (5th Cir. 1991); *United States v. Sassak*, 881 F.2d. 276, 280 (6th Cir. 1989); *United States v. Benson*, 941 F.2d. 598, 613 (7th Cir. 1991); *United States v. Dykstra*, 991 F.2d. 450, 453 (8th Cir. 1993); *United States v. Kellogg*, 955 F.2d. 1244, 1248 (9th Cir. 1992); *United States v. Willie*, 941 F.2d. 1384, 1392 (10th Cir. 1991). It has the same meaning in both the felony and misdemeanor statutes of the Internal Revenue Code. See Section 8.06[1], *supra*.

Proof of willfulness may be based totally on circumstantial evidence. *United States v. Schiff*, 612 F.2d. 73, 77-78 (2d Cir. 1979); *Hellman v. United States* 339 F.2d. 36, 38 (5th Cir. 1964); *United States v. Grumka*, 728 F.2d. 794, 797 (6th Cir. 1984); *United States v. Gleason*, 726 F.2d. 385, 388 (8th Cir. 1984); *United States v. Fingado*, 934 F.2d. 1163, 1167 (10th Cir.), cert. denied, 112 S.Ct. 320 (1991). Because proof of willfulness usually must be established by circumstantial evidence:

[T]rial courts should follow a liberal policy in admitting evidence directed towards establishing the defendant's state of mind. No evidence which bears on this issue should be excluded unless it interjects tangential and confusing elements which clearly outweigh its relevance.

*United States v. Collorafi*, 876 F.2d. 303, 305 (2d Cir. 1989).

Circumstantial evidence, in protestor cases, held competent to establish willfulness includes:

1. Tax protest activities and philosophies. *United States v. Turano*, 802 F.2d. 10, 11-12 (1st Cir. 1986); *United States v. Eargle*, 921 F.2d. 56, 58 (5th Cir. 1991); *United States v. Grosshans*, 821 F.2d. 1247, 1252 (6th Cir. 1987);
2. Filing of blatantly false W-4 forms in one year relevant to show willfulness and absence of mistake in filing false Schedule C forms in earlier years. *United States v. Johnson*, 893 F.2d. 451, 453 (1st Cir. 1990);
3. Prior taxpaying history, such as the prior filing of valid tax returns followed by the filing of a protest return and a letter from the Internal Revenue Service (I.R.S.) telling the defendant that his return "did not comply with tax laws and might subject him to criminal penalties." *United States v. Shivers*, 788 F.2d. 1046, 1048 (5th Cir. 1986) ; *United States v. Daniel*, 956 F.2d. 540, 543 (6th Cir. 1992); *United States v. DeClue*, 899 F.2d. 1465 (6th Cir. 1990); *United States v. Green*, 757 F.2d. 116, 123-24 (7th Cir. 1985); *United States v. Upton*, 799 F.2d. 432, 433 (8th Cir. 1986); *United States v. Poschwatta*, 829 F.2d. 1477, 1483 (9th Cir. 1987), *cert. denied*, 484 U.S. 1064 (1988);
4. Subsequent taxpaying conduct. *United States v. Upton*, 799 F.2d. 432, 433 (8th Cir. 1986); *United States v. Richards*, 723 F.2d. 646, 649 (8th Cir. 1983);
5. Filing false Forms W-4. *United States v. Connor*, 898 F.2d. 942, 945 (3d Cir. 1990), *cert. denied*, 110 S.Ct. 3284 (1990); *United States v. Shivers*, 788 F.2d. 1046, 1048 (5th Cir. 1986); *United States v. Carpenter*, 776 F.2d. 1291, 1295 (5th Cir. 1985); *United States v. Ferguson*, 793 F.2d. 828, 831 (7th Cir.), *cert. denied*, 479 U.S. 933 (1986); *United States v. Schmitt*, 794 F.2d. 555, 560 (10th Cir. 1986);
6. The amount of a defendant's gross income. *United States v. Payne*, 800 F.2d. 227 (10th Cir. 1986) [i.e., the higher the defendant's gross income, the less likely the defendant was unaware of the filing requirement and the more likely the defendant's failure was intentional rather than inadvertent];
7. Proof that knowledgeable persons warned the defendant of tax improprieties. *United States v. Collorafi*, 876 F.2d. 303, 305 (2d Cir. 1989); *United States v. Dack*, 987 F.2d. 1282, 1285 (7th Cir. 1993).

#### 40.11[2] **Good Faith Belief**

A defendant's conduct is not willful if the jury finds that the defendant's conduct resulted from "ignorance of the law or a claim that because of a misunderstanding of the law, he had a good faith belief that he was not violating any of the provisions of the tax laws." *Cheek v. United States*, 498 U.S. 192, 202 (1991). Cheek claimed that he did not file tax returns because he believed that he was not a taxpayer within the tax laws, that wages are not income, that the Sixteenth Amendment did not authorize the taxation of individuals and that the Sixteenth Amendment was unenforceable. *Cheek*, 498 U.S. at 195. The Court explained that:

*In the end, the issue is whether, based on all the evidence, the Government has proved that the defendant was aware of the duty at issue, which cannot be true if the jury credits a good-faith misunderstanding and belief submission, whether or not the claimed belief is objectively reasonable.*

*Cheek*, 498 U.S. at 202 (emphasis added). The Supreme Court held that the trial court's jury instructions that Cheek's good faith beliefs or misunderstanding of the law would have to be objectively reasonable to negate willfulness were erroneous with reference to Cheek's non-constitutional arguments, stating:

*It was therefore error to instruct the jury to disregard evidence of Cheek's understanding that, within the meaning of the tax laws, he was not a person required to file a return or pay income taxes and that wages are not taxable income, as incredible as such misunderstandings of and beliefs about the law might be.*

*Cheek*, 498 U.S. at 203.

The trial court did not err, however, in instructing the jury not to consider Cheek's claims that the tax laws are unconstitutional:

*We thus hold that in a case like this, a defendant's views about the validity of the tax statutes are irrelevant to the issue of willfulness, need not be heard by the jury, and if they are, an instruction to disregard them would be proper. For this purpose, it makes no difference whether the claims of invalidity are frivolous or have substance.*



1 *Cheek*, 498 U.S. at 206. *See also United States v. Saussy*, 802 F.2d. 849, 853 (6th Cir. 1986), *cert. denied*, 480 U.S. 907  
2 (1987); *United States v. Kraeger*, 711 F.2d. 6, 7 (2d Cir. 1983); *United States v. Burton*, 737 F.2d. 439, 442 (5th Cir. 1984);  
3 *United States v. Latham*, 754 F.2d. 747, 751 (7th Cir. 1985); *United States v. Moore*, 627 F.2d. 830, 833 n.1 (7th Cir. 1980),  
4 *cert. denied*, 450 U.S. 916 (1981); *United States v. Karsky*, 610 F.2d. 548, 550 (8th Cir. 1979), *cert. denied*, 444 U.S. 1092  
5 (1980); *United States v. Mueller*, 778 F.2d. 539, 541 (9th Cir. 1985); *United States v. Payne*, 800 F.2d. 227 (10th Cir. 1986);  
6 *United States v. Pilcher*, 672 F.2d. 875, 877 (11th Cir.), *cert. denied*, 459 U.S. 973 (1982).

7 The *Cheek* Court stated that a jury considering a good faith belief claim:

8 *would be free to consider any admissible evidence from any source showing that . . . [the taxpayer] was aware of*  
9 *his . . . [duties under the tax laws], including evidence showing his awareness of the Code or regulations, of court*  
10 *decisions rejecting his interpretations of the tax law, of authoritative rulings of the Internal Revenue Service*  
11 *(I.R.S.), or any contents of the personal income tax return forms and accompanying instructions . . .*

12 *Cheek*, 498 U.S. at 202.

13 In determining whether a subjective good faith belief was held, a jury should not be precluded from considering the  
14 reasonableness of the taxpayer's interpretation of the law.

15 *[T]he more unreasonable the asserted beliefs or misunderstandings are, the more likely the jury will consider*  
16 *them to be nothing more than simple disagreement with known legal duties imposed by the tax laws and will find*  
17 *that the Government has carried its burden of proving knowledge.*

18 *Cheek*, 498 U.S. at 203-04. After remand, the Seventh Circuit upheld *Cheek's* conviction, *United States v. Cheek*, 3 F.3d.  
19 1057 (7th Cir. 1993), *cert. denied*, 114 S.Ct. 1055 (1994), finding that the trial court's instruction that the jury could "consider  
20 whether the defendant's stated belief about the tax statutes was reasonable as a factor in deciding whether he held that belief  
21 in good-faith" was proper. *Cheek*, 3 F.3d. at 1063. *See also United States v. Becker*, 965 F.2d. 383, 388 (7th Cir. 1992), *cert.*  
22 *denied*, 112 S.Ct. 1411 (1993); *United States v. Powell*, 955 F.2d. 1206, 1212 (9th Cir. 1992) (jury may consider "the  
23 reasonableness of the interpretation of the law in weighing the credibility" of defendants' subjective belief that they were not  
24 required to file tax returns).

25 Tax protestors often claim that their beliefs that they are not required to file returns or pay taxes are based upon a careful  
26 study of legal decisions, statutes, legal treatises, and the like, and seek to have such materials admitted into evidence. *See,*  
27 *e.g., United States v. Bonneau*, 970 F.2d. 929, 931 (1st Cir. 1992); *United States v. Willie*, 941 F.2d. 1384, 1391 (10th Cir.  
28 1991), *cert. denied*, 112 S.Ct. 1200 (1992). However, before such materials may be admitted, the taxpayer must lay a  
29 sufficient foundation of reliance. Nevertheless, the laying of such a foundation does not guarantee admissibility. Although  
30 legal and tax protestor materials upon which the defendant claims to have relied may be relevant to a good faith defense,  
31 there are competing interests which militate against the unrestricted admission of this type of evidence. The admission of  
32 such materials may confuse the jury as to the law, *see United States v. Barnett*, 945 F.2d. 1296, 1301 (5th Cir. 1991), *cert.*  
33 *denied*, 112 S.Ct. 1487 (1992); *Willie*, 941 F.2d. at 1395-97; *United States v. Kraeger*, 711 F.2d. 6, 7-8 (2d Cir. 1983); *United*  
34 *States v. Stafford*, 983 F.2d. 25, 28 n.14 (5th Cir. 1993); *United States v. Gleason*, 726 F.2d. 385, 388 (8th Cir. 1984); *United*  
35 *States v. Payne*, 978 F.2d. 1177, 1181-82 (10th Cir. 1992), *cert. denied*, 112 S.Ct. 2441 (1993), and may assist a defendant  
36 who wishes to undermine the authority of the court and turn his trial into a tax protestor circus, *see Willie*, 941 F.2d. at 1395  
37 & n.8. The exclusion of such materials from evidence does not prevent a defendant from conveying the core of his defense  
38 to the jury: the defendant may still testify as to his asserted beliefs and how he supposedly arrived at them. *See Barnett*, 945  
39 F.2d. at 1301; *United States v. Hairston*, 819 F.2d. 971, 973 (10th Cir. 1987). It is for the district court to weigh the various  
40 competing interests and determine, in its discretion, whether, to what extent, and in what form, legal materials upon which a  
41 defendant claims to have relied should be admitted in any given case. *See Willie*, 941 F.2d. at 1398; Fed. R. Evid. 403.<sup>3</sup>

42 A prosecutor should not seek to exclude such evidence in all situations. *See United States v. Gaumer*, 972 F.2d. 723, 725  
43 (6th Cir. 1992) (error not to allow defendant to read relevant excerpts of court opinions and Congressional Record upon which  
44 he assertedly relied in determining that he was not required to file tax returns); *United States v. Powell*, 955 F.2d. 1206, 1215  
45 (9th Cir. 1992) ("In § 7203 prosecutions, statutes or case law upon which the defendant claims to have *actually relied* are

<sup>3</sup> Among the factors which would be relevant to such a determination would be the centrality of these materials to a defendant's claimed misunderstanding of the tax laws, the materials' length and potential to confuse the jury, *see Barnett*, 945 F.2d. at 1301 n.3, the degree to which such materials are merely cumulative to a defendant's testimony or to other evidence, the extent to which a defendant may be attempting to use them to instruct the jury on the law or to propagate tax protestor beliefs, and the potential utility of limiting instructions, *see and compare United States v. Powell*, 955 F.2d. 1206, 1214 (9th Cir. 1992), and *Willie*, 941 F.2d. at 1404 n.4 (Ebel, J., dissenting), with *Willie*, 941 F.2d. at 1395 (majority opinion).



admissible to disprove that element [willfulness] if the defendant lays a proper foundation which demonstrates such reliance." ). Restraint should be exercised where appropriate so as not to jeopardize convictions on appeal. This is particularly true where the defendant has made a specific claim of reliance on a relatively limited amount of material. See *Barnett*, 945 F.2d. at 1301 n.3 (noting that exclusion of specific proffer of one or two sentences from an IRS handbook may have been error, albeit harmless, and contrasting this specific proffer with the "voluminous, 'cover the waterfront' exhibits" that defendant had originally offered). In such a situation, the prosecutor should consider requesting a limiting instruction rather than opposing the admission of such evidence.<sup>4</sup>

For examples of jury instructions on willfulness and the good faith defense that have been upheld, see *United States v. Droge*, 961 F.2d. 1030, 1037-38 (2d Cir.), cert. denied, 113 S.Ct. 609 (1992); *Stafford*, 983 F.2d. at 27; *United States v. Masat*, 948 F.2d. 923, 931-32 (5th Cir. 1991); *United States v. Dack*, 987 F.2d. 1282, 1285 (7th Cir. 1993); *United States v. Becker*, 965 F.2d. 383, 388 (7th Cir. 1992), cert. denied, 113 S.Ct. 1411 (1993); *United States v. Dykstra*, 991 F.2d. 450, 452-53 (8th Cir. 1993); *United States v. Fingado*, 934 F.2d. 1163, 1166-67 (10th Cir.), cert. denied, 112 S.Ct. 320 (1991); *United States v. Collins*, 920 F.2d. 619, 622-23 (10th Cir. 1990), cert. denied, 111 S.Ct. 2022 (1991).

#### 4.4 Tax Procedure and Tax Fraud Book

The book *Tax Procedure and Tax Fraud*, Patricia Morgan, 1999, ISBN 0-314-06586-5 further defines willfulness in the context of taxation as follows:

**willfulness.** The Supreme Court's first attempt to define willfulness came in its 1933 decision of *Murdock*, supra. The Court first observed that the term "denotes an act which is intentional, or knowing, or voluntary, as distinguished from accidental." In language that would bedevil the courts for years thereafter, the *Murdock* Court further stated that "willfully" usually means "an act done with a bad purpose; without justifiable excuse; stubbornly, obstinately, perversely \* \* \* or with bad faith or evil intent." Ten years later, the Court in *Spies v. United States* (S.Ct.1943) stated that the term willfulness connotes "evil motive and want of justification." Thirty years after *Spies*, in 1973, the Supreme Court was still referring to the willfulness requirement in terms of bad purpose or evil motive. In *United States v. Bishop* (S.Ct.1973), the Court stated that it "shall continue to require, in both tax felonies and tax misdemeanors that must be done 'willfully,' the bad purpose or evil motive described in *Murdock*."

Finally, in 1976, the Supreme Court ended the confusion caused by these early continuing references to bad purpose and evil motive. Simply put, the issue was whether proof of a specific intent to violate the law was sufficient, or whether the jury was required to find that the taxpayer acted with bad purpose or evil motive. In *United States v. Pomponio* (S.Ct.1976), a per curiam decision, the Court seemed surprised that lower courts were requiring a finding of bad purpose or evil motive. The Court stated that the lower courts "incorrectly" assumed that the reference to an 'evil motive' in *United States v. Bishop* and earlier cases meant something more than the specific intent to violate the law\*\*\*. The Court then stated the meaning of the term in language that remains standard definition: willfulness "simply means a voluntary, intentional violation of a known legal duty."

Although courts and commentators still refer to the evil motive or bad purpose requirement, it is important to recognize that these terms are illustrative and do not impose any additional proof requirement. Thus, a jury finding that a defendant acted with an evil motive is tantamount to the ultimate finding of willfulness; on the other hand, a jury can find that a defendant acted willfully without finding that he acted with bad purpose or evil motive. In other words, although a voluntary violation of a known legal duty may reflect a bad purpose or evil motive, the Government need not prove, and the jury need not find, both the specific intent to violate the law and evil motive or bad purpose.

As *Bishop*, supra, makes clear, the term willfulness means the same thing in tax felonies as it does in tax misdemeanors. There is no lesser standard of intent for the willful failure to file misdemeanor than for the felony of attempted tax evasion: both require a voluntary, intentional violation of a known legal duty. Carelessness or mistake is insufficient in both the felony and the misdemeanor context.  
[Tax Procedure and Tax Fraud, Patricia Morgan, 1999, ISBN 0-314-06586-5, pp. 310-312]

#### 5 Choice of Law in Civil Tax Litigation<sup>5</sup>

Within civil tax litigation, there are certain rules for determining what law may be cited as evidence of violation or injury. The foundation of these rules is Federal Rule of Civil Procedure 17(b), which says in pertinent part:

<sup>4</sup> The prosecutor may be able to utilize the proffered evidence to demonstrate the implausibility of a defendant's claim of good-faith reliance.

<sup>5</sup> Adapted from *Tax Fraud Prevention Manual*, Form #06.008, Chapter 5.

1 IV. PARTIES > Rule 17.  
2 Rule 17. Parties Plaintiff and Defendant; Capacity

3 (b) Capacity to Sue or be Sued.

4 Capacity to sue or be sued is determined as follows:

- 5 (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;  
6 (2) for a corporation, by the law under which it was organized [laws of the District of Columbia]; and  
7 (3) for all other parties, by the law of the state where the court is located, except that:  
8 (A) a partnership or other unincorporated association with no such capacity under that state's law may sue or  
9 be sued in its common name to enforce a substantive right existing under the United States Constitution  
10 or laws; and  
11 (B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or  
12 be sued in a United States court.  
13 [SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

14 The above means literally that in civil tax litigation, the only type of law that can be cited is the law of the Defendant's  
15 domicile. The Defendant's domicile, in turn, is a matter of his own personal and political choice, and it is recorded on  
16 government forms, such as driver's license applications, voter registrations, tax forms, etc. See the following for details:

17 <u>Why Domicile and Becoming a "Taxpayer" Require Your Consent</u> , Form #05.002 18 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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19 We also emphasize that a person with a domicile within a state of the Union does NOT maintain a domicile within the "United  
20 States" as defined in the Internal Revenue Code, 26 U.S.C. §7701(a)(9) and (a)(10). See:

- 21 1. Citizenship, Domicile, and Tax Status Options, Form #10.003, Section 2  
22 <http://sedm.org/Forms/FormIndex.htm>  
23 2. An Investigation Into the Meaning of the Term "United States", Howard Freeman  
24 <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm>

25 Therefore, by implication, the I.R.C. may not be cited against a person domiciled in a state of the Union. The only exception  
26 to this requirement is the case of a person who is acting in a representative capacity as an officer of the government. This is  
27 alluded to in Rule 17(b) above, when it says:

28 Capacity to sue or be sued is determined as follows:

- 29 (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;  
30 (2) for a corporation, by the law under which it was organized [laws of the District of Columbia]; and

31 In the case where a person is acting in a representative capacity over a federal business entity, federal contract, or as a federal  
32 "employee", the American Jurisprudence 2d legal encyclopedia describes what law prevails. It says of claims of the United  
33 States against private parties the following:

34 *American Jurisprudence, 2d*  
35 *United States*  
36 § 42 Interest on claim [77 Am Jur 2d UNITED STATES]

37 *The interest to be recovered as damages for the delayed payment of a contractual obligation to the United States*  
38 *is not controlled by state statute or local common law. In the absence of an applicable federal statute, the federal*  
39 *courts must determine according to their own criteria the appropriate measure of damages. State law may,*  
40 *however, be adopted as the federal law of decision in some instances.*  
41 [American Jurisprudence 2d, United States, §42: Interest on Claim (1999)]

42 Federal office, contract, or benefit claims may not be litigated in a state court because of the Separation of Powers Doctrine.  
43 Therefore, they must be litigated in federal court as a contract claim, and the rules of decision must be only federal law, based  
44 on the above. The laws to be applied, under Federal Rule of Civil Procedure 17(b), are the laws under which the United  
45 States Government federal corporation are organized, which are the U.S. Code, instead of state law. What makes the issue  
justiciable is that it is a federal benefit, employment, or contract issue. Our memorandum of law below also proves that  
Subtitle A of the I.R.C. attaches to people in states of the Union as "private law" or "contract law" at:

The Internal Revenue Code, Subtitle A therefore attaches to people as “private law”, “contract law” and “special law”. Even the U.S. Supreme Court admitted this 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 *Fauntleroy 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)]

Below is the meaning of “quasi-contract” from the above quote:

***“Quasi contract.*** An obligation which law creates in absence of agreement; it is invoked by courts where there is unjust enrichment. *Andrews v. O'Grady*, 44 Misc.2d. 28, 252 N.Y.S.2d. 814, 817. Sometimes referred to as implied-in-law contracts (as a legal fiction) to distinguish them from implied-in-fact contracts (voluntary agreements inferred from the parties' conduct). Function of “quasi-contract” is to raise obligation in law where in fact the parties made no promise, and it is not based on apparent intention of the parties. *Fink v. Goodson-Todman Enterprises, Limited*, 9 C.A.3d. 996, 88 Cal.Rptr. 679, 690. See also *Contract*.”  
[*Black's Law Dictionary*, Sixth Edition, p. 1245]

The trouble is, the federal courts refuse to acknowledge the requirement to prove written or even constructive consent to the contract, and by ignoring the requirement for written, explicit consent, they have in effect made participation in this “scheme” to defraud the people involuntary and enforced. The result is racketeering and extortion, in violation of 18 U.S.C. §1951. We can easily see how being party to this contract makes us into “domiciliaries” and “residents” of the District of Columbia by examining the older implementing regulations for Section 7701 of the Internal Revenue Code below. Note that a party becomes a “resident” by virtue of whether they are engaged in a “trade or business”, which means federal contracts and employment. In effect, consenting to the federal employment contract by engaging in a “trade or business” contractually shifts one’s domicile to the District of Columbia. Here is the regulation which proves this, which by the way was conveniently REMOVED from the code right after we published this finding in order to hide the true nature of the income tax from the average American:

26 C.F.R. §301.7701-5 Domestic, foreign, resident, and nonresident persons. (2005)

A domestic corporation is one organized or created in the United States, including only the States (and during the periods when not States, the Territories of Alaska and Hawaii), and the District of Columbia, or under the law of the United States or of any State or Territory. A foreign corporation is one which is not domestic. A domestic corporation is a resident corporation even though it does no business and owns no property in the United States. **A foreign corporation engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident foreign corporation, and a foreign corporation not engaged in trade or business within the United States, as a nonresident foreign corporation.** A partnership engaged in trade or business within the United States is referred to in the regulations in this chapter as a resident partnership, and a partnership not engaged in trade or business within the United States, as a nonresident partnership. **Whether a partnership is to be regarded as resident or nonresident is not determined by the nationality or residence of its members or by the place in which it was created or organized.**  
[26 C.F.R. §301.7701-5, Amended by T.D. 8813, *Federal Register*: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]

Based on the above analysis, we will now list what law is admissible as evidence (not “presumed” evidence, but REAL evidence) of liability in a federal trial relating to tax issues. This list was adapted from the beginning of Chapter 5 of the Tax Fraud Prevention Manual, Form #06.008:

1. Federal district and circuit courts are administrative franchise courts created under the authority of Article 4, Section 3, Clause 2 of the Constitution and which have jurisdiction only over the following:

1.1. Plenary/General jurisdiction over federal territory: Implemented primarily through “public law” and applies generally to all persons and things. This is a requirement of “equal protection” found in [42 U.S.C. §1981](#). Operates upon:

1.1.1. The District of Columbia under Article 1, Section 8, Clause 17 of the U.S. Constitution.

1.1.2. Federal territories and possessions under Article 4, Section 3, Clause 3 of the U.S. Constitution.

1.1.3. Special maritime jurisdiction (admiralty) in territorial waters under the exclusive jurisdiction of the general/federal government.

1.1.4. Federal areas within states of the Union ceded to the federal government. Federal judicial districts consist entirely of the federal territory within the exterior boundaries of the district, and do not encompass land not ceded to the federal government as required by 40 U.S.C. §255 and its successors, [40 U.S.C. §3111](#) and [3112](#). See section 6.4 of the Tax Fraud Prevention Manual, Form #06.008 et seq for further details.

1.1.5. Domiciliaries of the federal United States\*\* temporarily abroad. See 26 U.S.C. §911 and Cook v. Tait, 265 U.S. 47, 44 S.Ct. 447, 11 Virginia Law Review, 607 (1924).

1.2. Subject matter jurisdiction:

1.2.1. “Public laws” which operate throughout the states of the Union upon the following subjects:

1.2.1.1. Excise taxes upon imports from foreign countries. See Article 1, Section 8, Clause 1 of the U.S. Constitution. Congress may NOT, however, tax any article exported from a state pursuant to Article 1, Section 9, Clause 5 of the Constitution. Other than these subject matters, NO national taxes are authorized:

*“The States, after they formed the Union, continued to have the same range of taxing power which they had before, barring only duties affecting exports, imports, and on tonnage. 2 Congress, on the other hand, to lay taxes in order 'to pay the Debts and provide for the common Defence and general Welfare of the United States', Art. 1, Sec. 8, U.S.C.A.Const., can reach every person and every dollar in the land with due regard to Constitutional limitations as to the method of laying taxes.”*  
[Graves v. People of State of New York, [306 U.S. 466](#) (1939)]

*“The difficulties arising out of our dual form of government and the opportunities for differing opinions concerning the relative rights of state and national governments are many; but for a very long time this court has steadfastly adhered to the doctrine that the taxing power of Congress does not extend to the states or their political subdivisions. The same basic reasoning which leads to that conclusion, we think, requires like limitation upon the power which springs from the bankruptcy clause. United States v. Butler, supra.”*  
[Ashton v. Cameron County Water Improvement District No. 1, [298 U.S. 513](#); 56 S.Ct. 892 (1936)]

*“Thus, Congress having power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes, may, without doubt, provide for **granting** coasting **licenses**, licenses to pilots, licenses to trade with the Indians, and any other **licenses** necessary or proper for the exercise of that great and extensive power; and the same observation is applicable to every other power of Congress, to the exercise of which the granting of licenses may be incident. All such licenses confer authority, and give rights to the licensee.*

*But very different considerations apply to the **internal commerce or domestic trade** of the States. Over this commerce and trade Congress has **no power of regulation nor any direct control**. This power belongs **exclusively** to the States. **No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature.** The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject. It is true that the power of Congress to tax is a very extensive power. It is given in the Constitution, with only one exception and only two qualifications. Congress cannot tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. But, it reaches only existing subjects. Congress cannot authorize a trade or business within a State in order to tax it.”*  
[License Tax Cases, [72 U.S. 462](#), 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866)]

- 1.2.1.2. Postal fraud. See Article 1, Section 8, Clause 7 of the U.S. Constitution..  
1.2.1.3. Counterfeiting under Article 1, Section 8, Clause 6 of the U.S. Constitution.  
1.2.1.4. Treason under Article 4, Section 2, Clause 3 of the U.S. Constitution.  
1.2.1.5. Interstate commercial crimes under Article 1, Section 8, Clause 3 of the U.S. Constitution.  
1.2.1.6. Jurisdiction over naturalization and exportation of Constitutional aliens.  
1.2.1.7. Slavery, involuntary servitude, or peonage under the Thirteenth Amendment, 42 U.S.C. §1994, 18 U.S.C. §1581. and 18 U.S.C. §1589(3).

*"Other authorities to the same effect might be cited. It is not open to doubt that Congress may enforce the Thirteenth Amendment by direct legislation, punishing the holding of a person in slavery or in involuntary servitude except as a punishment for a crime. In the exercise of that power Congress has enacted these sections denouncing peonage, and punishing one who holds another in that condition of involuntary servitude. **This legislation is not limited to the territories or other parts of the strictly national domain, but is operative in the states and wherever the sovereignty of the United States extends.** We entertain no doubt of the validity of this legislation, or of its applicability to the case of any person holding another in a state of peonage, and this whether there be municipal ordinance or state law sanctioning such holding. **It operates directly on every citizen of the Republic, wherever his residence may be.**"*  
[Clyatt v. U.S., 197 U.S. 207 (1905)]

- 1.2.2. "Private law" or "special law" pursuant to Article 4, Section 3, Clause 2 of the U.S. Constitution. Applies only to persons and things who individually consent through private agreement or contract. Note that this jurisdiction also includes contracts with states of the Union and private individuals in those states. Includes, but is not limited exclusively to the following:

- 1.2.2.1. Federal franchises, such as Social Security, Medicare, etc. See:

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

- 1.2.2.2. Federal employees, as described in Title 5 of the U.S. Code.  
1.2.2.3. Federal contracts and "public offices".  
1.2.2.4. Federal chattel property.  
1.2.2.5. Subtitle A of the Internal Revenue Code.  
1.2.2.6. Social Security, found in 42 U.S.C. Chapter 7.

2. Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 says that the IRS cannot cite rulings below the Supreme Court to apply to more than the specific person who litigated:

*Internal Revenue Manual*  
[Section 4.10.7.2.9.8 \(05-14-1999\)](#)  
*Importance of Court Decisions*

*1. Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.*

*2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.*

*3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers.*

Federal courts have repeatedly stated that the general government is one of finite, enumerated, delegated powers. The implication of that concept is that whatever the government can do, the people can do also because the authority to do it came from the People. Consequently, if the IRS can refuse to be bound by rulings below the U.S. Supreme Court, the same constraints apply to us as the source of all their power:

*"Sovereignty itself is, of course, not subject to law, for it is the author and source of law...While sovereign powers are delegated to...the government, sovereignty itself remains with the people."*  
[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

*"The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States or the people."*  
[United States v. Cruikshank, 92 U.S. 542 (1875)]



"The question is not what power the federal government ought to have, but what powers, in fact, have been given by the people... The federal union is a government of delegated powers. It has only such as are expressly conferred upon it, and such as are reasonably to be implied from those granted. In this respect, we differ radically from nations where all legislative power, without restriction or limitation, is vested in a parliament or other legislative body subject to no restriction except the discretion of its members." (Congress)  
[[U.S. v. William M. Butler, 297 U.S. 1 \(1936\)](#)]

3. There is no federal common law within states of the Union, according to the Supreme Court in *Erie Railroad v. Tompkins*, [304 U.S. 64](#) (1938). Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens domiciled in states of the union who do not declare themselves to be "U.S. citizens" under 8 U.S.C. §1401 and who would litigate under diversity of citizenship, as described in Article III, Section 2 of the U.S. Constitution but NOT 28 U.S.C. §1332.

"There is no Federal Common Law, and Congress has no power to declare substantive rules of Common Law applicable in a state. Whether they be local or general in their nature, be they commercial law or a part of the Law of Torts"  
[*Erie Railroad v. Tompkins*, 304 U.S. 64 (1938)]

**"Common law.** As distinguished from statutory law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming, and enforcing such usages and customs and, in this sense, particularly the ancient unwritten law of England. In general, it is a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments. The "common law" is all the statutory and case law background of England and the American colonies before the American revolution. *People v. Rehman*, 253 C.A.2d 119, 61 Cal.Rptr. 65, 85. It consists of those principles, usage and rules of action applicable to government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature. *Bishop v. U.S., D.C.Tex.*, 334 F.Supp. 415, 418.

"Calif. Civil Code, Section 22.2, provides that the "common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States, or the Constitution or laws of this State, is the rule of decision in all the courts of this State."

"In a broad sense, "common law" may designate all that part of the positive law, juristic theory, and ancient custom of any state or nation which is of general and universal application, thus marking off special or local rules or customs.

"For federal common law, see that title.

"As a compound adjective "common-law" is understood as contrasted with or opposed to "statutory," and sometimes also to "equitable" or to "criminal."  
[*Black's Law Dictionary*, Sixth Edition, p. 276]

4. The [Rules of Decision Act, 28 U.S.C. §1652](#), requires that the laws of the states of the Union are the only rules of decision in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and MAY NOT cite federal case law in the case of persons not domiciled on federal territory and who are therefore not statutory "U.S. citizens" or "U.S. residents".

[TITLE 28 > PART V > CHAPTER 111 > § 1652](#)  
[§ 1652. State laws as rules of decision](#)

The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

The thing they deliberately and self-servingly don't tell you in this act is specifically when federal law applies extraterritorially in a state of the Union, which is ONLY in the case of federal contracts, franchises, and domiciliaries and NO OTHERS. What all these conditions have in common is that they relate to federal territory and property and come under Article 4, Section 3, Clause 2 of the United States Constitution and may only be officiated in an Article 4 legislative franchise court, which includes all federal District and Circuit Courts. See the following for proof that all federal District and Circuit courts are Article 4 legislative franchise courts and not Article 3 constitutional courts:

4.1. [What Happened to Justice?](#), Litigation Tool #08.001

<http://sedm.org/ItemInfo/Ebooks/WhatHappJustice/WhatHappJustice.htm>



4.2. Authorities on Jurisdiction of Federal Courts, Family Guardian Fellowship

<http://famguardian.org/Subjects/LawAndGovt/ChallJurisdiction/AuthoritiesArticle/AuthOnJurisdiction.htm>

5. Federal Rule of Civil Procedure 17(b) says that the capacity to sue or be sued is determined by the law of the individual's domicile. It quotes two and only two exceptions to this rule, which are:

5.1. A person acting in a representative capacity as an officer of a federal entity.

5.2. A corporation that was created and is domiciled within federal territory.

This means that if a person is domiciled within the exclusive jurisdiction of a state of the Union and not within a federal enclave, then state law are the rules of decision rather than federal law. Since state income tax liability in nearly every state is dependent on a federal liability first, this makes an income tax liability impossible for those domiciled outside the federal zone or inside the exclusive jurisdiction of a state, because such persons cannot be statutory "U.S. citizens" as defined in 8 U.S.C. §1401 nor "residents" as defined in 26 U.S.C. §7701(b)(1)(A).

IV. PARTIES > Rule 17.

Rule 17. Parties Plaintiff and Defendant; Capacity

(b) Capacity to Sue or be Sued.

Capacity to sue or be sued is determined as follows:

(1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;

(2) for a corporation, by the law under which it was organized; and

(3) for all other parties, by the law of the state where the court is located, except that:

(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and

(B) 28 U.S.C. §§754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.

[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

A person engaged in a "trade or business" occupies a "public office" within the U.S. government, which is a federal corporation (28 U.S.C. §3002(15)(A)) created and domiciled on federal territory. They are also acting in a representative capacity as an officer of said corporation. Therefore, such "persons" are the ONLY real taxpayers against whom federal law may be cited outside of federal territory. Anyone in the government who therefore wishes to enforce federal law against a person domiciled outside of federal territory (the "United States" as defined in 26 U.S.C. §7701(a)(9) and (a)(10)) and who is therefore not a statutory "U.S. citizen" or "resident" (alien) therefore must satisfy the burden of proof with evidence to demonstrate that the defendant lawfully occupied a public office within the U.S. government in the context of all transactions that they claim are subject to tax. See:

The "Trade or Business" Scam, Form #05.001

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

6. 28 U.S.C. §2679(d)(3) indicates that any action against an officer or employee of the United States, if he was not acting within his lawful delegated authority or in accordance with law, may be removed to State court and prosecuted exclusively under state law because not a federal question.
7. For a person domiciled in a state of the Union, federal law may only be applied against them if they are either suing the United States or are involved in a franchise or "public right". Franchises and public rights deal exclusively with "public rights" created by Congress between private individuals and the government. Litigation involving franchises generally is done only in Article IV legislative courts and not Article III constitutional courts. Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983).
8. Any government representative, and especially who is from the Department of Justice or the IRS, who does any of the following against anyone domiciled outside of federal territory and within a state of the Union is trying to maliciously destroy the separation of powers, destroy or undermine your Constitutional rights, and unconstitutionally and unlawfully enlarge their jurisdiction and importance.
- 8.1. Cites a case below the Supreme Court or from a territorial or franchise court such as the District of Circuit Courts or Tax Court. This is an abuse of case law for political rather than lawful purposes and it is intended to deceive and injure the hearer. Federal courts, incidentally, are NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of case law, but judges who are fond of increasing their retirement benefits often will acquiesce if you don't call them on it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under 28 U.S.C. §144 and 28 U.S.C. §455.
- 8.2. Enforces federal franchises such as the "trade or business" franchise (income tax, I.R.C. Subtitle A) against persons not domiciled on federal territory. The U.S. Supreme Court said in the License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866) that they could not enforce federal franchises outside of federal territory.

8.3. Presumes or infers that “United States” as used in the Constitution is the same thing as “United States” as defined in federal statutory law. They are mutually exclusive, in fact.

9. Every occasion in which courts exceed their jurisdiction that we are aware of originates from the following important and often deliberate and malicious abuses by government employees, judges, and prosecutors. We must prevent and overcome these abuses in order to keep the government within the bounds of the Constitution:

9.1. Misunderstanding or misapplication of the above choice of law rules.

9.2. Failure or refusal to adjust the meaning of “words of art” based on their context and the legal definitions that apply in that context. See:

*Geographical Definitions and Conventions*, Form #11.215

<http://sedm.org/SampleLetters/DefinitionsAndConventions.htm>

9.3. A violation of or disregard for the rules of statutory construction, usually by abusing the word “includes”. See:

*Legal Deception, Propaganda, and Fraud*, Form #05.014

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

9.4. Presumptions, usually about the meanings of words. See:

*Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017

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

The U.S. Supreme Court identified the enemies of republican freedom originating from the above causes, when it held:

*“The chief enemies of republican freedom are [mental sloth](#), [conformity](#), [bigotry](#), [superstition](#), [credulity](#), monopoly in the market of ideas, and utter, benighted ignorance.”*

*[Adderley v. State of Florida, 385 U.S. 39, 49 (1967)]*

The book *Conflicts in a Nutshell* confirms some of the above conclusions by saying the following:

*“After some 96 years of this, the Supreme Court acknowledged the unfair choice of forum this gave the plaintiff in a case governed by decisional rather than statutory law merely because the plaintiff and defendant happened to come from different states. Reconstructing the Rules of Decision Act, the Supreme Court in Erie overruled Swift and held that state law governs in the common law as well as in the statutory situation. Subsequent cases clarified that this means forum law; the law of the state in which the federal court is sitting.*

*“The result is that the federal court in a diversity case sits in effect as just another state court, seeking out forum state law for all substantive issues. The Rules of Decision Act does not apply to procedural matters, however; for matters of procedure a federal court, sitting in a diversity or any other kind of case, applies its own rules. This has been so since 1938, when , coincidentally (Erie was also decided in 1938), the Federal Rules of Civil Procedure arrived on the scene.”*

*[Conflicts in a Nutshell, David D. Seigel, West Publishing, 1994; ISBN 0-314-02952-4, p. 317]*

See section 5.1.4 of the *Tax Fraud Prevention Manual*, Form #06.008 for further details on how the DOJ, IRS, and the Federal Judiciary abuse case law for political rather than legitimate or Constitutional legal purposes in order to encourage and foster false “presumption”. Consequently, as you read the cites provided in this chapter, all of which derive from federal courts, you must take them with a grain of salt and a healthy bit of discretion. See also the memorandum of law entitled “Political Jurisdiction” to show how they abuse due process to injure your Constitutional rights by politicizing the courtroom:

*Political Jurisdiction*, Form #05.004

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

The above choice of law rules for federal district and circuit courts can be further summarized below:

1. Civil Jurisdiction originates from one or more of the following. Note that jurisdiction over all the items below originates from Article 4, Section 3, Clause 2 of the United States Constitution and relates to community “property” of the states under the stewardship of the federal government.

1.1. Persons domiciled on federal territory wherever physically located. These persons include:

1.1.1. Statutory “U.S. citizens” pursuant to 8 U.S.C. §1401.

1.1.2. Statutory “residents” (aliens) lawfully admitted pursuant to 8 U.S.C. §1101(a)(3).

1.1.3. “U.S. persons” defined in 26 U.S.C. §7701(a)(30).

1.2. Engaging in franchises offered by the national government to persons domiciled only on federal territory, wherever physically situated. This includes jurisdiction over:

1.2.1. Public officers, who are called “employees” in 5 U.S.C. §2105.

1.2.2. Federal agencies and instrumentalities.

1.2.3. Federal corporations

- 1.2.4. Social Security, which is also called Old Age Survivor's Disability Insurance (OASDI).  
1.2.5. Medicare.  
1.2.6. Unemployment insurance, which is also called FICA.  
1.3. Management of federal territory and contracts.  
2. Criminal jurisdiction originates from crimes committed only on federal territory.

In law, rights are property:

***Property.** That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict legal sense, an aggregate of rights which are guaranteed and protected by the government. Fulton Light, Heat & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which no way depends on another man's courtesy.*

*The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal, everything that has an exchangeable value or which goes to make up wealth or estate. It extends to every species of valuable right and interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one's property rights by actionable wrong. Labberton v. General Cas. Co. of America, 53 Wash.2d. 180, 332 P.2d. 250, 252. 254.*

*Property embraces everything which is or may be the subject of ownership, whether a legal ownership. or whether beneficial, or a private ownership. Davis v. Davis. TexCiv-App., 495 S.W.2d. 607. 611. Term includes not only ownership and possession but also the right of use and enjoyment for lawful purposes. Hoffmann v. Kinealy, Mo., 389 S.W.2d. 745, 752.*

*Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical thing, as right to possess, use and dispose of it. Cereghino v. State By and Through State Highway Commission, 230 Or. 439. 370 P.2d. 694. 697.*

*Goodwill is property, Howell v. Bowden, TexCiv. App., 368 S.W.2d. 842, &18; as is an insurance policy and rights incident thereto, including a right to the proceeds, Harris v. Harris, 83 N.M. 441,493 P.2d. 407, 408.*

*Criminal code. "Property" means anything of value. including real estate, tangible and intangible personal property, contract rights, choses-in-action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Model Penal Code. Q 223.0. See also Property of another, infra. Dusts. Under definition in Restatement, Second, Trusts, Q 2(c), it denotes interest in things and not the things themselves.  
[Black's Law Dictionary, Fifth Edition, p. 1095]*

Anything that conveys rights is also property. Contracts convey rights and therefore are property. All franchises are contracts between the grantor and grantee and therefore also are property. Therefore, contracts, franchises, territory, and domicile (which is a protection franchise) all constitute property of the national government and are the origin of all civil jurisdiction over the individual in federal courts. It is this jurisdiction mainly over government/public franchises which is the origin of nearly all civil jurisdiction that federal courts assert over most Americans.

All franchises cause those engaged in them to take on a "public character" and become government agents, officers, and "public officers" of one kind or another and the "office" they occupy has an effective domicile on federal territory. The public office is the "res" or subject of nearly all civil proceedings in the district and circuit franchise courts, and not the physical person occupying said office.

***"Res.** Lat. The subject matter of a trust [the Social Security Trust, in most cases] or will [for legislation]. In the civil law, a thing; an object. As a term of the law, this word has a very wide and extensive signification, including not only things which are objects of property, but also such as are not capable of individual ownership. And in old English law it is said to have a general import, comprehending both corporeal and incorporeal things of whatever kind, nature, or species. By "res," according to the modern civilians, is meant everything that may form an object of rights, in opposition to "persona," which is regarded as a subject of rights. "Res," therefore, in its general meaning, comprises actions [or CONSEQUENCES of choices and CONTRACTS/AGREEMENTS you make by procuring BENEFITS] of all kinds; while in its restricted sense it comprehends every object of right, except actions. This has reference to the fundamental division of the Institutes that all law relates either to persons, to things, or to actions.*

*Res is everything that may form an object of rights and includes an object, subject-matter or status. In re Riggle's Will, 11 A.D.2d. 51 205 N.Y.S.2d. 19, 21, 22. The term is particularly applied to an object, subject-matter, or status, considered as the defendant [hence, the ALL CAPS NAME] in an action, or as an object against which, directly, proceedings are taken. Thus, in a prize case, the captured vessel is "the res"; and proceedings of this character are said to be in rem. (See In personam; In Rem.) "Res" may also denote the action or proceeding, as when a cause, which is not between adversary parties, is entitled "In re \_\_\_\_\_". [Black's Law Dictionary, Sixth Edition, pp. 1304-1306]*

The trust they are talking about in the phrase "subject matter of a trust" is the "public trust". Government is a public trust:

TITLE 5--ADMINISTRATIVE PERSONNEL  
CHAPTER XVI--OFFICE OF GOVERNMENT ETHICS  
PART 2635--STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH--  
Table of Contents  
Subpart A--General Provisions  
Sec. 2635.101 Basic obligation of public service.

(a) **Public service is a public trust.** Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

In the case below, this source of civil jurisdiction over government franchises is called "statutory law":

One great object of the Constitution is to permit citizens to structure their private relations as they choose subject only to the constraints of statutory or decisional law.

To implement these principles, courts must consider from time to time where the governmental sphere [e.g. "public purpose" and "public office"] ends and the private sphere begins. Although the conduct of private parties lies beyond the Constitution's scope in most instances, governmental authority may dominate an activity to such an extent that its participants must be deemed to act with the authority of the government and, as a result, be subject to constitutional constraints. This is the jurisprudence of state action, which explores the "essential dichotomy" between the private sphere and the public sphere, with all its attendant constitutional obligations. Moose Lodge, supra, at 172. "

[. . .]

Given that the statutory authorization for the challenges exercised in this case is clear, the remainder of our state action analysis centers around the second part of the Lugar test, whether a private litigant, in all fairness, must be deemed a government actor in the use of peremptory challenges. Although we have recognized that this aspect of the analysis is often a fact-bound inquiry, see Lugar, supra, 457 U.S. at 939, our cases disclose certain principles of general application. Our precedents establish that, in determining whether a particular action or course of conduct is governmental in character, it is relevant to examine the following: the extent to which the actor relies on governmental assistance and benefits, see Tulsa Professional Collection Services, Inc. v. Pope, 485 U.S. 478 (1988); Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961); whether the actor is performing a traditional governmental function, see Terry v. Adams, 345 U.S. 461 (1953); Marsh v. Alabama, 326 U.S. 501 (1946); cf. San Francisco Arts & Athletics, Inc. v. United States Olympic [500 U.S. 614, 622] Committee, 483 U.S. 522, 544-545 (1987); and whether the injury caused is aggravated in a unique way by the incidents of governmental authority, see Shelley v. Kraemer, 334 U.S. 1 (1948). Based on our application of these three principles to the circumstances here, we hold that the exercise of peremptory challenges by the defendant in the District Court was pursuant to a course of state action. [Edmonson v. Leesville Concrete Company, 500 U.S. 614 (1991)]

In support of the above conclusions, the following memorandum of law exhaustively analyzes the subject of civil statutory jurisdiction of the national government over persons domiciled outside of federal territory and in states of the Union and concludes that all statutory law is law only for the government and franchisees who are also part of the government:

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

We will now summarize the conclusions of this section with a table so that they are perfectly clear:

1 **Table 1: Choice of law in tax litigation**

#	Description	Choice of law	
		<i>PRIVATE humans domiciled in states of the Union with no federal contracts, benefits, agency, or employment</i>	<i>PUBLIC Federal employees, contractors, benefit recipients, and agents</i>
1	Subject matter constituting authority federal jurisdiction	None	Federal employment, contracts, agency
2	Authorities on source of jurisdiction	<a href="#">Federal Rule of Civil Procedure 17(b)</a> <a href="#">Rules of Decision Act, 28 U.S.C. §1652</a> <i>Erie Railroad v. Tompkins</i> , <a href="#">304 U.S. 64</a> (1938)	<a href="#">Federal Rule of Civil Procedure 17(b)</a> <a href="#">5 U.S.C. §552(a)(1)</a> <a href="#">5 U.S.C. §553(a)(2)</a> <a href="#">26 C.F.R. §601.702(a)(1)</a> <a href="#">31 C.F.R. §1.3(a)(4)</a> <a href="#">44 U.S.C. §1505(a)</a> .
3	Only authorized place to litigate	State court (See <a href="#">Alden v. Maine</a> , <a href="#">527 U.S. 706</a> (1999))	Federal court (See <a href="#">Alden v. Maine</a> , <a href="#">527 U.S. 706</a> (1999))
4	Law to be applied	State revenue codes (Internal Revenue Code is <i>excluded</i> ) State judicial precedents (stare decisis) ONLY	Internal Revenue Code Federal District and Circuit Court precedents (stare decisis) ONLY
5	“Presumption” in court	Prohibited by U.S. Constitution because violates “due process” of law	Not prohibited, because Bill of Rights (first ten Amendments to the United States Constitution) do not apply in the “federal zone”
6	Taxable activity	None	“trade or business” as defined in <a href="#">26 U.S.C. §7701(a)(26)</a> . See: <a href="http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm">http://famguardian.org/Subjects/Taxes/Articles/TradeOrBusinessScam.htm</a>
7	Earnings are	Devoted to a private use	Devoted to a “public use” to procure “privileges” such as tax deductions under 26 U.S.C. §162, Earned income credits under 26 U.S.C. §32, and reduced liability, graduated rate under 26 U.S.C. §1.
8	Legal domicile of Defendant	State of the Union	District of Columbia (see <a href="#">26 U.S.C. §7701(a)(9)</a> and (a)(10))
9	Agency (role) of Defendant	Natural person (self) (See <i>Hale v. Henkel</i> , <a href="#">201 U.S. 43</a> (1906))	1 “Transferee” under <a href="#">26 U.S.C. §6901</a> 2 “Fiduciary” under <a href="#">26 U.S.C. §6903</a> 3 Federal “employee” under 26 C.F.R. §31.3401(c)-1 4 “Officer of a corporation” under 26 U.S.C. §6671(b) and 26 U.S.C. §7343 5 “Public office”. See <a href="#">Osborn v. Bank of U.S.</a> , <a href="#">22 U.S. 738</a> (1824) for definition meaning of “public office”
10	Contract which created federal agency/employment	None	SSA Form SS-5 IRS Form W-4 IRS Form 1040
11	What you have to do to terminate federal agency/employment	Nothing	Send in: <a href="#">Resignation of Compelled Social Security Trustee</a> , Form #06.002: <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>



#	Description	Choice of law	
		<b>PRIVATE humans domiciled in states of the Union with no federal contracts, benefits, agency, or employment</b>	<b>PUBLIC Federal employees, contractors, benefit recipients, and agents</b>
12	Admissible evidence in a tax trial	State law Statutes at Large after 1939. See <a href="#">53 Stat. 1, Section 4</a> . Rulings of the Supreme Court and not lower courts. See <a href="#">Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8</a>	Whatever the judge wants. There can be no violation of due process for people who are not protected by the Constitution.
13	Enforcement of federal law requires ALL of the following	Positive law (see <a href="#">1 U.S.C. §204</a> legislative notes for list of titles that are positive law). See: <a href="http://sedm.org/Forms/05-MemLaw/Consent.pdf">http://sedm.org/Forms/05-MemLaw/Consent.pdf</a> Implementing regulations published in the Federal Register	Proof of consent/contract Statutes only. Implementing regulations published in the Federal Register are NOT required under <a href="#">44 U.S.C. §1505(a)(1)</a> and <a href="#">5 U.S.C. §553(a)(2)</a> .

1 The legal separation between the left and right portions of the above table is mandated by law. Only you can connect one  
2 side to the other with your express consent. This is masterfully explained in the following presentation:

Separation Between Public and Private Course, Form #12.025  
<http://sedm.org/Forms/FormIndex.htm>

3 The party on the left in the above table, who is the PRIVATE man or woman with no contracts, employment, or agency with  
4 the government, is the person you want to be in order to be free and sovereign. The U.S. Supreme Court has said of such a  
5 PRIVATE person:

6 *"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business*  
7 *in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his*  
8 *business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty*  
9 *to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are*  
10 *such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from*  
11 *him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate*  
12 *himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law.*  
13 ***He owes nothing to the public [including so-called "taxes" under Subtitle A of the I.R.C.] so long as he does***  
14 ***not trespass upon their rights.***  
15 *[Hale v. Henkel, [201 U.S. 43](#), 74 (1906)]*

16 *"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political*  
17 *controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles*  
18 *to be applied by the courts. One's right to life, liberty and property, to free speech, a free press, freedom of*  
19 *worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome*  
20 *of no elections."* [Emphasis added]  
21 *[West Virginia State Board of Education v. Barnette, 319 U.S. 623]*

22 *"No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual*  
23 *to the possession and control of his own person, free from all restraint or interference of others, unless by clear*  
24 *and unquestionable authority of law. As well said by Judge Cooley: 'The right to one's person may be said to be*  
25 *a right of complete immunity; to be let alone.' Cooley, Torts, 29."*  
26 *[Union Pac Ry Co v. Botsford, 141 U.S. 250, 11 S.Ct. 1000, 35 L.Ed. 734 (1891) ]*

27 *"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness... They*  
28 *sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred,*  
29 *as against the Government, the right to be let alone - the most comprehensive of rights and the right most valued*  
30 *by civilized men."* [Emphasis added]  
31 *[Olmstead v. United States, 277 U.S. 438, 478 (1928); Washington v. Harper, 494 U.S. 210 (1990)]*

32 On the other hand, the PUBLIC party on the right, the federal employee or contractor, has essentially no Constitutional rights.  
33 He is a legislative fictionary creation and puppet of Uncle Sam. This was explained by the U.S. Supreme Court as follows:



1           “The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the  
2 regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity  
3 as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees.  
4 Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. *Kelley v. Johnson*, 425  
5 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many  
6 circumstances government employees can. *O'Connor v. Ortega*, 480 U.S. 709, 723 (1987) (plurality opinion); *id.*,  
7 at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the  
8 government information that may incriminate them, but government employees can be dismissed when the  
9 incriminating information that they refuse to provide relates to the performance of their job. *Gardner v.*  
10 *Broderick*, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular:  
11 Private citizens cannot be punished for speech of merely private concern, but government employees can be fired  
12 for that reason. *Connick v. Myers*, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan  
13 political activity, but federal and state employees can be dismissed and otherwise punished for that reason. *Public*  
14 *Workers v. Mitchell*, 330 U.S. 75, 101 (1947); *Civil Service Comm'n v. Letter Carriers*, 413 U.S. 548, 556 (1973);  
15 *Broadrick v. Oklahoma*, 413 U.S. 601, 616 -617 (1973).”  
16 [*Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990)]

17 If you would like to know all the many additional reasons why federal courts are presuming you to be a federal “employee”  
18 or “public officer” if they prosecute you for income tax crimes, penalties, or other infractions under Subtitle A of the Internal  
19 Revenue Code, please consult our other informative memorandum of law below. If you still doubt what we have said in this  
20 section, please also rebut the evidence and questions at the end of link below:

*Why Your Government is Either a Thief or You Are a “Public Officer” for Income Tax Purposes*, Form #05.008  
<http://sedm.org/Forms/FormIndex.htm>

## 21 **6 How the way you fill out tax forms can effect choice of law in tax litigation**

22 All statutory civil law is law for government and not private human beings. The reasons are many, but the most important  
23 one is that slavery and theft are crimes and you are a victim of both if the government can impose any duties under the civil  
24 law or take away any of your property without your express and continuing consent. This is explained in:

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

25 All government forms therefore PRESUME that those filling them out are public officers in the government and not private  
26 human beings. The minute you ask for ANYTHING from a government on a government form is the minute that you are  
27 effectively agreeing to become an officer or agent of the government who is exchanging their otherwise PRIVATE rights  
28 and PRIVATE property for some commercial “benefit” from the government. The way you fill out tax forms and what  
29 attachments you include can therefore have a HUGE effect on your civil “status” within a court of law. It is EXTREMELY  
30 important that you:

- 31 1. Understand that every opportunity you have to fill out government forms is:
  - 32 1.1. A consensual attempt to contract with the government.
  - 33 1.2. Makes you into a “Buyer” of government services under U.C.C. §2-103.
  - 34 1.3. Makes the government into a “Merchant” of goods and services under U.C.C. §2-104(1).
- 35 2. Indicate duress in making said application. Any contract or agreement is INVALID in the presence of either duress or  
36 the ABSENCE of consent. For an example of such a statement of duress, see:

*Affidavit of Duress: Illegal Tax Enforcement by De Facto Officers*, Form #02.005  
<http://sedm.org/Forms/FormIndex.htm>

- 37 3. Reserve all rights under U.C.C. §1-308.
- 38 4. Attach a criminal complaint against the source of the duress.
- 39 5. Choose the RIGHT form that accurately reflects your status. All IRS forms, for instance, are only for STATUTORY  
40 “taxpayers”. If you aren’t a statutory “taxpayer”, then you can’t use any of their forms without either modifying the  
41 form or including an attachment.
- 42 6. NEVER consent to:
  - 43 6.1. ANYTHING the government wants.
  - 44 6.2. Acquire any statutory “status” under any government law, because ALL of them are public offices in the  
45 government.
- 46 7. Define all terms on the form to EXCLUDE government jurisdiction.

8. Tell the recipient of the form that you want to be told that you are NOT eligible for the thing demanded AND that you need not be eligible to either conduct commerce or to pursue your occupation as an EXCLUSIVELY PRIVATE human.

In the absence of the above evidence in your administrative record, you will be PRESUMED to be a public officer in the government and a WHORE for the government Beast who in effect works as a statutory “employee” without compensation and has to do ANYTHING and EVERYTHING that Uncle says. Fill your administrative record with the above types of evidence at every stage of your interactions because if you don’t you will put yourself in peril with no defense against their unconstitutional presumptions about your status. If you would like example forms that do the above, see:

1. Tax Form Attachment, Form #04.201-attach to tax forms to prevent misconstruing your status.
2. Citizenship, Domicile, and Tax Status Options, Form #10.003- Excellent succinct reference to talk about citizenship and domicile in legal proceedings and discovery to prevent misunderstandings about your sovereign status during litigation.
3. Affidavit of Citizenship, Domicile, and Tax Status, Form #02.001- for use with forms other than tax forms. Documents your citizenship, domicile and dictates choice of law for all disputes.
4. Federal Pleading/Motion/Petition Attachment, Litigation Tool #01.002-Attach this form to all your pleadings, petitions, and responses filed in a federal district court. It will protect your status as a person not subject to their jurisdiction.

To give you one simple example of how Subtitle A of the I.R.C. attaches ILLEGALLY to people in states of the Union as a federal employment contract and “private law” issue consistent with the above, consider the IRS Form W-4. The regulations describing the IRS Form W-4 identify it as a “voluntary withholding agreement”. Here is the regulation:

Title 26  
CHAPTER I  
SUBCHAPTER C  
PART 31  
Subpart E  
[Sec. 31.3402\(p\)-1 Voluntary withholding agreements.](#)

(a) In general.

*An employee and his employer may enter into an **agreement** under section 3402(b) to provide for the withholding of income tax upon payments of amounts described in paragraph (b)(1) of Sec. 31.3401(a)-3, made after December 31, 1970. **An agreement may be entered into under this section only with respect to amounts which are includible in the gross income of the employee under section 61, and must be applicable to all such amounts paid by the employer to the employee.** The amount to be withheld pursuant to an agreement under section 3402(p) shall be determined under the rules contained in section 3402 and the regulations thereunder. (b) Form and duration of agreement. (1)(i) Except as provided in subdivision (ii) of this subparagraph, an employee who desires to enter into an agreement under section 3402(p) shall furnish his employer with Form W-4 (withholding exemption certificate) executed in accordance with the provisions of section 3402(f) and the regulations thereunder. The furnishing of such Form W-4 shall constitute a request for withholding.*

Black’s Law Dictionary defines an “agreement” essentially as a contract. When you fill out and submit an IRS Form W-4, you are signing a contract or agreement to procure “social insurance” from the national (not “federal”) government. That contract or agreement:

1. Causes you to be treated AS IF you are a federal subcontractor, federal agent, or “Kelley girl”, whether you know it or not.
2. Causes you to be treated AS IF you are a “Trustee” over federal property, which USED to be YOUR private property called “labor”. See:

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

3. Causes you to be treated AS IF you are a federal statutory “employee” per 5 U.S.C. §2105, or at least an agent or fiduciary for a federal trust which is wholly owned by the mother corporation, the “United States”, as defined in [28 U.S.C. §3002\(15\)\(A\)](#).

[26 C.F.R. §31.3401\(c\)-1 Employee:](#)

1 "...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a  
2 [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any  
3 agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of  
4 a corporation."

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6 [26 U.S.C. §3401\(c\) Employee](#)

7 For purposes of this chapter, the term "employee" includes [is limited to] an officer, employee, or elected official  
8 of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or  
9 instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a  
10 corporation.

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12 [TITLE 5 > PART III > Subpart A > CHAPTER 21 > § 2105](#)  
13 [§2105. Employee](#)

14 (a) For the purpose of this title, "employee", except as otherwise provided by this section or when specifically  
15 modified, means an officer and an individual who is—

16 (1) appointed in the civil service by one of the following acting in an official capacity—

17 (A) the President;

18 (B) a Member or Members of Congress, or the Congress;

19 (C) a member of a uniformed service;

20 (D) an individual who is an employee under this section;

21 (E) the head of a Government controlled corporation; or

22 (F) an adjutant general designated by the Secretary concerned under section 709 (c) of title 32;

23 (2) engaged in the performance of a Federal function under authority of law or an Executive act; and

24 (3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the  
25 performance of the duties of his position.

- 26 4. Causes you to be treated AS IF you are an "officer of a corporation", who is liable under [26 U.S.C. §6671\(b\)](#) for all  
27 I.R.C. penalties and liable for all criminal provisions of the I.R.C. under [26 U.S.C. §7343](#).  
28 5. Converts your earnings from labor from PRIVATE property you exclusively own and control to PUBLIC property  
29 subject to government regulation called "wages". See:

<p><i>Great IRS Hoax</i>, Form #11.302, Section 5.6.7: You Don't Earn "Wages" Under Subtitle C Unless you Volunteer on a W-4 <a href="https://sedm.org/Forms/FormIndex.htm">https://sedm.org/Forms/FormIndex.htm</a></p>
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- 30 6. Creates a common law liability to file a return that NEED NOT appear in statutes, because it is an outgrowth of the duties  
31 of the public office that you are impersonating:

32 "I. DUTY TO ACCOUNT FOR PUBLIC FUNDS

33 § 909. In general.-

34 **It is the duty of the public officer, like any other agent or trustee, although not declared by express statute, to**  
35 **faithfully account for and pay over to the proper authorities all moneys which may come into his hands upon**  
36 **the public account, and the performance of this duty may be enforced by proper actions against the officer**  
37 **himself, or against those who have become sureties for the faithful discharge of his duties."**

38 [Treatise on the Law of Public Offices and officers, p. 609, §909; Floyd Mechem, 1890;

39 SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

- 40 7. Shifts your effective legal domicile to the District of Columbia, because:  
41 7.1. That is the domicile of the trust that you now represent. This is confirmed by 26 U.S.C. §7701(a)(39) and 26 U.S.C.  
42 §7408(d) and Federal Rule of Civil Procedure 17(b).  
43 7.2. You are now being treated AS IF you are a public officer within the national government, and the effective domicile  
44 of the OFFICE that you are SURETY for is the District of Columbia per Federal Rule of Civil Procedure 17(b).  
45 That public officer, who is an "officer of a corporation" fits within the definition of "person" found in 26 U.S.C.  
46 §7353 and 26 U.S.C. §6671(b).

*"It is true, that the person who accepts an office may be supposed to enter into a compact to be answerable to the government, which he serves, for any violation of his duty; and, having taken the oath of office, he would unquestionably be liable, in such case, to a prosecution for perjury in the Federal Courts. But because one man, by his own act [CONSENT], renders himself amenable to a particular jurisdiction, shall another man, who has not incurred a similar obligation, be implicated? If, in other words, it is sufficient to vest a jurisdiction in this court, that a Federal Officer is concerned; if it is a sufficient proof of a case arising under a law of the United States to affect other persons, that such officer is bound, by law, to discharge his duty with fidelity; a source of jurisdiction is opened, which must inevitably overflow and destroy all the barriers between the judicial authorities of the State and the general government. Anything which can prevent a Federal Officer from the punctual, as well as from an impartial, performance of his duty; an assault and battery; or the recovery of a debt, as well as the offer of a bribe, may be made a foundation of the jurisdiction of this court; and, considering the constant disposition of power to extend the sphere of its influence, fictions will be resorted to, when real cases cease to occur. A mere fiction, that the defendant is in the custody of the marshall, has rendered the jurisdiction of the King's Bench universal in all personal actions."*

[United States v. Worrall, 2 U.S. 384 (1798)]

SOURCE: [http://scholar.google.com/scholar\\_case?case=3339893669697439168](http://scholar.google.com/scholar_case?case=3339893669697439168)]

8. Turns the Social Security Number into a "Taxpayer Identification Number" and a de facto license number for the Trustee office, which is now you. See:

Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?, Form #05.013  
<http://sedm.org/LibertyU/WhoAreTaxpayers.pdf>

9. Causes your earnings to be treated AS IF they federal government revenues and makes you APPEAR to be a "transferee" and "fiduciary" over federal payments. See [26 U.S.C. §§6901](#) to 6903.
10. Causes your earnings and your time to be treated AS IF they were voluntarily to a "public use", thereby giving the public the right to control that use:

*"Surely the matters in which the public has the most interest are the supplies of food and clothing; yet can it be that by reason of this interest the state may fix the price at which the butcher must sell his meat, or the vendor of boots and shoes his goods? Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;" and to 'secure,' not grant or create, these rights, governments are instituted. That property which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation."*

[Budd v. People of State of New York, 143 U.S. 517 (1892)]

11. Causes the IRS Form 1040 into a profit and loss statement for a federal business trust.
- 11.1. The business trust is wholly owned by the U.S. Inc federal corporation and therefore is itself ALSO a federal corporation.
- 11.2. The amount "returned" on this form is the "corporate profit" that is the subject of the Internal Revenue Code, Subtitle A income tax. In effect, the IRS Form 1040 is a method by which subsidiaries of the mother corporation send "kickbacks" to the mother corporation.
12. Causes you to be treated AS IF you are a withholding agent who is liable under [26 U.S.C. §1461](#) to "return" federal payments to your new employer, the federal government. That "withholding agent", like EVERY other statutory "status" under government codes, is a public office who withholds against the otherwise PRIVATE human and the PRIVATE earnings of the human being voluntarily filling the office.

You can read why all the above is true in the following sources, should you wish to further investigate:

1. The "Trade or Business" Scam, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>
2. Great IRS Hoax, Form #11.302, Sections 5.6.5 and 5.6.12:  
<http://famguardian.org/Publications/GreatIRSHoax/GreatIRSHoax.htm>
3. Resignation of Compelled Social Security Trustee, Form #06.002:  
<http://sedm.org/Forms/FormIndex.htm>

## **7 Lack of Accuracy, Credibility, Reliability, & Truthfulness of IRS Statements and Publications<sup>6</sup>**

When people read this pamphlet, they frequently ask:

*"What about the IRS Publications? What you are saying conflicts with what they say and what the IRS tells me on the telephone. Who should I listen to?"*

The federal courts and the IRS' own Internal Revenue Manual answer this question quite forcefully, and the answer is NOT THE IRS OR ITS PUBLICATIONS! This may sound hard to believe, but our corrupt federal courts refuse to hold the IRS accountable for any of the following:

1. The content of their publications or even their forms. See Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8.
2. Following its own written procedures found in the Internal Revenue Manual (I.R.M.)
3. Following the procedural regulations developed by the Secretary of the Treasury under [26 C.F.R. Part 601](#).
4. The oral agreements or statements that its representatives make, even when their delegation order authorizes them to make such agreements. Instead, most settlements and agreements must be reduced to writing or they are unenforceable.

For this determination, we rely on the following cases, downloaded from the VersusLaw website (<http://www.versuslaw.com>) and posted prominently on the Family Guardian Website. Read the authorities for yourself. We have highlighted the most pertinent parts of these authorities:

Table 2: Things IRS is NOT responsible or accountable for

<b><i>Not responsible for:</i></b>	<b><i>Controlling Case(s):</i></b>
Following revenue rulings, handbooks, etc.	<a href="#">CWT Farms Inc. v. Commissioner of Internal Revenue, 755 F.2d. 790 (11th Cir. 03/19/1985)</a>
Following procedures in the <a href="#">Internal Revenue Manual (I.R.M.)</a>	<a href="#">U.S. v. Will, 671 F.2d. 963 (1982)</a>
Following procedural regulations found in <a href="#">26 C.F.R. Part 601</a>	1. <a href="#">Einhorn v. Dewitt, 618 F.2d. 347 (5th Cir. 06/04/1980)</a> 2. <a href="#">Luhring v. Glotzbach, 304 F.2d. 560 (4th Cir. 05/28/1962)</a>
Oral agreements or statements	<a href="#">Boulez v. C.I.R., 258 U.S.App. D.C. 90, 810 F.2d. 209 (1987)</a>

The most blatant and clear statement was made in the case of CWT Farms, Inc., above, which ruled:

*"It is unfortunately all too common for government manuals, handbooks, and in-house publications to contain statements that were not meant or are not wholly reliable. If they go counter to governing statutes and regulations of the highest or higher dignity, e.g. regulations published in the Federal Register, they do not bind the government, and persons relying on them do so at their peril. Caterpillar Tractor Co. v. United States, 589 F.2d. 1040, 1043, 218 Ct.Cl. 517 (1978) (A Handbook for Exporters, a Treasury publication). Dunphy v. United States [529 F.2d. 532, 208 Ct.Cl. 986 (1975)], supra (Navy publication entitled All Hands). In such cases it is necessary to examine any informal publication to see if it was really written to fasten legal consequences on the government. Dunphy, supra. See also Donovan v. United States, 139 U.S. App. D.C. 364, 433 F.2d. 522 (D.C.Cir.), cert. denied, 401 U.S. 944, 91 S.Ct. 955, 28 L.Ed. 2d 225 (1971). (Employees Performance Improvement Handbook, an FAA publication)(merely advisory and directory publications do not have mandatory consequences). Bartholomew v. United States, 740 F.2d. 526, 532 n. 3 (7th Cir. 1984)(quoting Fiorentino v. United States, 607 F.2d. 963, 968, 221 Ct.Cl. 545 (1979), cert. denied, 444 U.S. 1083, 100 S.Ct. 1039, 62 L.Ed. 2d 768 (1980).*

*Lecroy 's proposition that the statements in the handbook were binding is inapposite to the accepted law among the circuits that publications are not binding.\*fn15 We find that the Commissioner did not abuse his discretion in promulgating the challenged regulations. First, Farms and International did not justifiably rely on the Handbook. Taxpayers who rely on Treasury publications, which are mere guidelines, do so at their peril. Caterpillar Tractor Co. v. United States, 589 F.2d. 1040, 1043, 218 Ct.Cl. 517 (1978). Further, the Treasury's position on the sixty-day rule was made public through proposed section 1.993-2(d)(2) in 1972, before the taxable years at issue. Charbonnet v. United States, 455 F.2d. 1195, 1199-1200 (5th Cir.1972). See also Wendland v. Commissioner of Internal Revenue, 739 F.2d. 580, 581 (11th Cir.1984). Second, whatever harm has been suffered by Farms and International resulted from a lack of prudence. As even the Lecroy 751 F.2d. at 127. See also 79 T.C. at 1069. "*  
*[CWT Farms Inc. v. Commissioner of Internal Revenue, 755 F.2d. 790 (11th Cir. 03/19/1985)]*

<sup>6</sup> From *Federal and State Tax Withholding Options for Private Employers*, section 9.



Even the IRS' own [Internal Revenue Manual \(I.R.M.\)](#) warns you that you can't depend on their publications, which include all of their forms!:

*"IRS Publications, issued by the National Office, explain the law in plain language for taxpayers and their advisors... While a good source of general information, publications should not be cited to sustain a position."*  
[[Internal Revenue Manual \(I.R.M.\), Section 4.10.7.2.8](#) (05-14-1999)]

After reading the above, additional conclusions and inferences can safely and soundly be drawn by implication:

1. If the IRS is not responsible for following its own internal regulations found in [26 C.F.R. Part 601](#), then it couldn't possibly be held liable for what it puts in its publications to the public EITHER. They could literally lie through their teeth and fool everyone into thinking they were "taxpayers" and not be held liable.
2. In the *Boulez* case above, an IRS representative who had explicit authority to make an agreement with the "taxpayer" still could not be held accountable for an oral agreement. This implies that all the phone advice given by IRS agents on their national 800 number cannot be relied upon as a basis for "good faith belief".
3. ONLY the Statutes at Large, as well as the regulations written by the Secretary of the Treasury found in [26 C.F.R. Part 1](#) and [26 C.F.R. Part 301](#), may be relied upon as having the "force of law", as the courts above described. Since [26 U.S.C.](#) (also called the Internal Revenue Code) was never enacted as positive law, it stands only as "prima facie evidence of law" which may be rebutted by citing the sections of the Statutes at Large from which it was compiled.

To put one last nail in the coffin of this issue, below is a quote from a book entitled *Tax Procedure and Tax Fraud*, Patricia Morgan, 1999, ISBN 0-314-06586-5, West Group:

p. 21: "As discussed in §2.3.3, the **IRS is not bound by its statements or positions in unofficial pamphlets and publications.**"

p. 34: "6. IRS Pamphlets and Booklets. **The IRS is not bound by statements or positions in its unofficial publications, such as handbooks and pamphlets.**"

p. 34: "7. Other Written and Oral Advice. **Most taxpayers' requests for advice from the IRS are made orally. Unfortunately, the IRS is not bound by answers or positions stated by its employees orally, whether in person or by telephone. According to the procedural regulations, 'oral advice is advisory only and the Service is not bound to recognize it in the examination of the taxpayer's return.'** 26 C.F.R. §601.201(k)(2). In rare cases, however, the IRS has been held to be equitably estopped to take a position different from that stated orally to, and justifiably relied on by, the taxpayer. The Omnibus Taxpayer Bill of Rights Act, enacted as part of the Technical and Miscellaneous Revenue Act of 1988, gives taxpayers some comfort, however. It amended section 6404 to require the Service to abate any penalty or addition to tax that is attributable to advice furnished in writing by any IRS agent or employee acting within the scope of his official capacity. Section 6404 as amended protects the taxpayer only if the following conditions are satisfied: the written advice from the IRS was issued in response to a written request from the taxpayer; reliance on the advice was reasonable; and the error in the advice did not result from inaccurate or incomplete information having been furnished by the taxpayer. Thus, it will still be difficult to bind the IRS even to written statements made by its employees. **As was true before, taxpayers may be penalized for following oral advice from the IRS.**"

If the IRS isn't held accountable in a court of law for what they say or even what they write, then they are, by implication, totally unaccountable to the public that they were put into existence to "serve". The Internal Revenue SERVICE, therefore, only SERVES the interests of itself and not the public at large. Furthermore, we believe the same rules should apply to Americans submitting their tax returns as those that apply to the IRS: not liable or responsible for what is written on the return. For instance, the "I declare under penalty of perjury" should be replaced with "I declare that this return as accurate and trustworthy as the advice and writings of the IRS". That is equivalent to saying that it is untrue and NOT trustworthy, and that will get you off the hook and also point out the hypocrisy and lawlessness of the IRS! What is good for the goose is good for the gander. Any other approach would be to condone hypocrisy and lawlessness and tyranny on the part of our government. Why aren't IRS agents required to sign their correspondence under penalty of perjury like all of the communication coming from the "taxpayer" so they CAN be held accountable? Here is what the U.S. Supreme Court had to say about this kind of hypocrisy and lawlessness. You be the judge!:

*"Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker [or a hypocrite with double standards], it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."*  
[Justice Brandeis, *Olmstead v. United States*, 277 U.S. 438, 485 (1928)]



It may also interest you to learn that even though YOU don't have to give any credence to IRS Publications, the I.R.C. says that IRS employees MUST follow published administrative guidance.

[TITLE 26 > Subtitle F > CHAPTER 80 > Subchapter A > § 7811](#)  
[§ 7811. TAXPAYER ASSISTANCE ORDERS](#)

(a) Authority to issue

[. . .]

(3) Standard where administrative guidance not followed

*In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a Taxpayer Assistance Order in the manner most favorable to the taxpayer.*

The IRS Restructuring and Reform Act of 1998, Section 1102, 112 Stat. 704 mimics the above by requiring the IRS to follow published administrative guidance, including the Internal Revenue Manual (I.R.M.).

## **8 Credibility of Federal Court Rulings on tax issues<sup>7</sup>**

Some, and especially the IRS, upon reading and responding to this pamphlet, might respond by saying such ridiculous things as the following:

*"Federal courts have ruled against the position in this pamphlet. They have said the claims here are 'frivolous' and completely without merit."*

Well, first of all, even the IRS' own Internal Revenue Manual (I.R.M.) says the IRS cannot cite any ruling OTHER than the U.S. Supreme Court. The U.S. Supreme Court has never ruled against any of the arguments in this pamphlet:

[Internal Revenue Manual \(I.R.M.\), Section 4.10.7.2.9.8 \(05-14-1999\)](#)  
*Importance of Court Decisions*

1. "Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.

2. Certain court cases lend more weight to a position than others. A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.

3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."  
[\[Internal Revenue Manual \(I.R.M.\), Section 4.10.7.2.9.8 \(05-14-1999\)\]](#)

So if you hear the IRS or anyone from the legal profession spouting off federal judicial precedent below the Supreme Court, then they are:

1. Certainly not following the IRS' own rules or policy on the subject.
2. Applying UNEQUAL standards to others and thereby being hypocrites. The foundation of ALL your freedom is equality of treatment as we point out in [Requirement for Equal Protection and Equal Treatment](#), Form #05.033.
3. Falsely presuming that the person who is the subject of the controversy is a federal employee, federal agent, or federal contractor acting in a representative capacity under the laws of the parent corporation, which is the United States government. [28 U.S.C. §3002](#)(15)(A) defines the term "United States" to mean a federal corporation.
4. Falsely presuming that federal district and circuit case law is relevant to the average American even though Federal Rule of Civil Procedure 17 says such caselaw does NOT apply to those not domiciled on federal territory, such as those domiciled in a constitutional state of the Union.

<sup>7</sup> Adapted from [Federal and State Tax Withholding Options for Private Employers](#), Form #09.001, Section 20.2.

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

5. Citing irrelevant case law from a jurisdiction which does not apply to most Americans. The federal District and Circuit courts, in fact, are Article IV legislative and territorial courts that can only rule on what Congress says they can rule on, and in the context of federal property mainly. United States Judicial Districts encompass only federal property within the outer limits of the District that has been ceded to the federal government as required under Article 1, Section 8, Clause 17 of the Constitution.
6. Abusing irrelevant case law as a means of political propaganda.
7. Involving the federal courts in strictly "political questions" beyond their jurisdiction. See our free memorandum of law: [Political Jurisdiction](http://sedm.org/Forms/FormIndex.htm), Form #05.004
8. Probably have a conflict of interest, because they wouldn't have a paying job if they admitted the truth about federal jurisdiction.

Second, the Declaratory Judgments Act, [28 U.S.C. 2201](#)(a), says that federal courts don't have the authority to declare rights or status within the context of federal taxes. Can someone please explain how they can call a person a "taxpayer" who submits evidence under penalty of perjury proving that they are a "nontaxpayer"?

*Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. §7701(a)(14)." (See Compl. at 2.) This Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the instant action. See 28 U.S.C. §2201; see also Hughes v. United States, 953 F.2d 531, 536-537 (9th Cir. 1991) (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED. [Rowen v. U.S., 05-3766MMC. (N.D.Cal. 11/02/2005)]*

A "nontaxpayer", which is the status of most Americans, is outside the jurisdiction of the I.R.C. and no judge can apply the provisions of the I.R.C. to those who are not "taxpayers" or who do not consent to be "taxpayers". The same thing applies to the IRS as well.

*"A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the statutes as a person liable for the tax without an opportunity for judicial review of this status before the appellation of 'taxpayer' is bestowed upon them and their property is seized..."*  
[Botta v. Scanlon, 288 F.2d 504, 508 (1961)]

*"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..."*

*"The distinction between persons and things within the scope of the revenue laws and those without is vital."*  
[Long v. Rasmussen, 281 F. 236, 238 (1922)]

Third, according to the Supreme Court in the case of *Erie R. Co. v. Tompkins*, 304 U.S. 64 (1938), there is no federal common law within states of the Union. State court precedent is the only thing that is even relevant for those who do not live or work on land within federal jurisdiction or lawfully service in a public office. Consequently, it's meaningless and even amounts to criminal identity theft to spout out federal appellate cites and doing so is nothing but a dangerous exercise in political propaganda using "judge-made law" that is irrelevant to Americans living outside of federal jurisdiction. That identity theft is described in:

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

Fourth, the book *What Happened to Justice?*, Form #06.012 thoroughly analyzes all the historical enactments of Congress relating to the federal judiciary and proves that Congress has never specifically or properly invoked Article III of the Constitution in creating any of the Federal District, Circuit, or Supreme Courts except possibly Hawaii. Consequently, all of these courts are Article IV territorial legislative Courts that are not part of the Judicial Branch of the government. This means they are part of one of the political branches of the government and all of their rulings are political and administrative rather

1 than judicial. They are incapable of exercising the “judicial power” of the United States contemplated in Article III of the  
2 Constitution. As a member of one of the political branches, every penalty they might attempt to impose amounts essentially  
3 to a bill of attainder and none of their rulings are trustworthy. Read the truth for yourself:

*What Happened to Justice?*, Form #06.012  
<http://sedm.org/Forms/FormIndex.htm>

4 Furthermore, these same “kangaroo courts” or “de facto courts” themselves have held that no one can or should trust *anything*  
5 that a member of the Executive or Legislative Branches of the Government says, which includes them if they are acting in  
6 Article I or Article IV in administering franchises such as the income tax! Everything they say is simply “political speech”  
7 that is therefore irrelevant and not obligatory to the average American.

8 “The Government may carry on its operations through conventional executive agencies or through corporate  
9 forms especially created for defined ends. See *Keifer & Keifer v. Reconstruction Finance Corp.*, 306 U.S. 381,  
10 390, 518. Whatever the form in which the Government functions, anyone entering into an arrangement with  
11 the Government takes the risk of having accurately ascertained that he who purports to act for the Government  
12 stays within the bounds of his authority. The scope of this authority may be explicitly defined by Congress or  
13 be limited by delegated legislation, properly exercised through the rule-making power. And this is so even  
14 though, as here, the agent himself may have been unaware of the limitations upon his authority. See, e.g., *Utah*  
15 *Power & Light Co. v. United States*, 243 U.S. 389, 409, 391; *United States v. Stewart*, 311 U.S. 60, 70, 108, and  
16 see, generally, *In re Floyd Acceptances*, 7 Wall. 666.”  
17 [Federal Crop Ins. V. Merrill, 332 U.S. 380 (1947)]  
18

19 Justice Holmes wrote: “Men must turn square corners when they deal with the Government.” *Rock Island, A. &*  
20 *L. R. Co. v. United States*, 254 U.S. 141, 143 (1920). This observation has its greatest force when a private party  
21 seeks to spend the Government’s money. Protection of the public fisc requires that those who seek public funds  
22 act with scrupulous regard for the requirements of law; respondent could expect no less than to be held to the  
23 most demanding standards in its quest for public funds. This is consistent with the general rule that those who  
24 deal with the Government are expected to know the law and may not rely on the conduct of Government agents  
25 contrary to law. 17 [467 U.S. 51, 64]

26 [...]

27 The appropriateness of respondent’s reliance is further undermined because the advice it received from Travelers  
28 was oral. It is not merely the possibility of fraud that undermines our confidence in the reliability of official action  
29 that is not confirmed or evidenced by a written instrument. Written advice, like a written judicial opinion, requires  
30 its author to reflect about the nature of the advice that is given to the citizen, and subjects that advice to the  
31 possibility of review, criticism, and reexamination. The necessity for ensuring that governmental agents stay  
32 within the lawful scope of their authority, and that those who seek public funds act with scrupulous exactitude,  
33 argues strongly for the conclusion that an estoppel cannot be erected on the basis of the oral advice that underlay  
34 respondent’s cost reports. That is especially true when a complex program such as Medicare is involved, in which  
35 the need for written records is manifest.  
36 [Heckler v. Comm Health Svc, 467 U.S. 51 (1984)]

37  
38 In their answers some of the defendants assert that when the forest reservations were created an understanding  
39 and agreement was had between the defendants, or their predecessors, and some unmentioned officers or agents  
40 of the United States, to the effect that the reservations would not be an obstacle to the construction or operation  
41 of the works in question; that all rights essential thereto would be allowed and granted under the act of 1905;  
42 that, consistently with this understanding and agreement, and relying thereon, the defendants, or their  
43 predecessors, completed the works and proceeded with the generation and distribution of electric energy, and  
44 that, in consequence, the United States is estopped to question the right of the defendants to maintain and operate  
45 the works. Of this it is enough to say that the United States is neither bound nor estopped by acts of its officers  
46 or agents in entering into an arrangement or agreement to do or cause to be done what the law does not  
47 sancion or permit. *Lee v. Munroe*, 7 Cranch, 366, 3 L.Ed. 373; *Filor v. United States*, 9 Wall. 45, 49, 19 L.Ed.  
48 549, 551; Hart v. United States, 95 U.S. 316, 24 L.Ed. 479; *Pine River Logging Co. v. United States*, 186 U.S.  
49 279, 291, 46 S. L.Ed. 1164, 1170, 22 Sup.Ct.Rep. 920.  
50 [Utah Power and Light v. U.S., 243 U.S. 389 (1917)]

51  
52 “It is contended that since the contract provided that the government ‘inspectors will keep a record of the work  
53 done,’ since their estimates were relied upon by the contractor, and since by reason of the inspector’s mistake the  
54 contractor was led to do work in excess of the appropriation, the United States is liable as upon an implied

contract for the fair value of the work performed. But the short answer to this contention is that since no official of the government could have rendered it liable for this work by an express contract, none can by his acts or omissions create a valid contract implied in fact. The limitation upon the authority to impose contract obligations upon the United States is as applicable to contracts by implication as it is to those expressly made." [Sutton v. U.S., 256 U.S. 575 (1921)]

Undoubtedly, the general rule is that the United States are neither bound nor estopped by the acts of their officers and agents in entering into an agreement or arrangement to do or cause to be done what the law does not sanction or permit. Also, those dealing with an agent of the United [294 U.S. 120, 124] States must be held to have had notice of the limitation of his authority. Utah Power & Light Co. v. United States, 243 U.S. 389, 409, 37 S.Ct. 387; Sutton v. United States, 256 U.S. 575, 579, 41 S.Ct. 563, 19 A.L.R. 403.

How far, if at all, these general rules are subject to modification where the United States enter into transactions commercial in nature (Cooke v. United States, 91 U.S. 389, 399; White v. United States, 270 U.S. 175, 180, 46 S.Ct. 274) we need not now inquire. The circumstances presented by this record do not show that the assured was deceived or misled to his detriment, or that he had adequate reason to suppose his contract would not be enforced or that the forfeiture provided for by the policy could be waived. New York Life Insurance Co. v. Eggleston, 96 U.S. 572; Phoenix Mut. Life Insurance Co. v. Doster, 106 U.S. 30, 1 S.Ct. 18. The grounds upon which estoppel or waiver are ordinarily predicated are not shown to exist. [Wilbur Natl Bank v. U.S., 294 U.S. 120 (1935)]

Lastly, when federal jurisdiction is challenged in a tax case using the materials in this pamphlet, the existence of territorial and subject matter jurisdiction must be decided by the jury, and NOT by the judge. A conflict of interest would result otherwise, because judges are subject to IRS extortion in violation of 28 U.S.C. §144 and 28 U.S.C. §455, and 18 U.S.C. §208. See:

Why the Federal Courts Can't Properly Address These Questions, Family Guardian Fellowship  
<http://famguardian.org/TaxFreedom/Forms/Discovery/Deposition/WhyCourtsCantAddressQuestions.htm>

Judges have no authority to be labeling an argument which challenges federal jurisdiction as frivolous *without* involving the jury or without a separate pleading and trial on the matter of being frivolous. This prevents abuses of judicial authority and conflict of interest. The U.S. Attorney Manual confirms this:

**United States Attorney Manual  
666 Proof of Territorial Jurisdiction**

There has been a trend to treat certain "jurisdictional facts" that do not bear on guilt (*mens rea* or *actus reus*) as non-elements of the offense, and therefore as issues for the court rather than the jury, and to require proof by only a preponderance that the offense was committed in the territorial jurisdiction of the court to establish that venue has been properly laid. See *United States v. Bowers*, 660 F.2d. 527, 531 (5th Cir. 1981); *Government of Canal Zone v. Burjan*, 596 F.2d. 690, 694 (5th Cir. 1979); *United States v. Black Cloud*, 590 F.2d. 270 (8th Cir. 1979) (jury question); *United States v. Powell*, 498 F.2d. 890, 891 (9th Cir. 1974). The court in *Government of Canal Zone v. Burjan*, 596 F.2d. at 694-95, applied the preponderance test to determinations of whether or not the offenses took place within the Canal Zone which established not merely proper venue but subject matter jurisdiction as well. Other cases, however, hold that the issue of whether the United States has jurisdiction over the site of a crime is a judicial question, see United States v. Jones, 480 F.2d. 1135, 1138 (2d Cir. 1973), but that the issue of whether the act was committed within the borders of the Federal enclave is for the jury and must be established beyond a reasonable doubt. See United States v. Parker, 622 F.2d. 298 (8th Cir. 1980); United States v. Jones, 480 F.2d. at 1138. The law of your Circuit must be consulted to determine which approach is followed in your district.

The decision in *Burjan* should be viewed with caution. The analogy between territorial jurisdiction and venue has much to recommend it. Nevertheless, it is important to recognize that the two are not of equal importance. As the Burjan court noted, citing Fed. R. Crim. P. 12, subject matter jurisdiction is so important that it cannot be waived and may be noticed at any stage of the proceeding, see *Government of the Canal Zone v. Burjan*, 596 F.2d. at 693, whereas the Ninth Circuit in *Powell* rested its ruling that venue need be proved by only a preponderance on the relative unimportance of venue as evidenced by its waivability. There is a clear distinction between the question of which court of a sovereign may try an accused for a violation of its laws and whether the sovereign's law has been violated at all.

Proof of territorial jurisdiction may be by direct or circumstantial evidence, and at least at the trial level may be aided by judicial notice. See *United States v. Bowers*, 660 F.2d. at 530-31; *Government of Canal Zone v. Burjan*, 596 F.2d. at 694. Compare *Government of Canal Zone v. Burjan*, 596 F.2d. 690 with *United States v. Jones*, 480 F.2d. 1135, concerning the role judicial notice may play on appeal.

2 Consequently, it is a violation of due process and a conflict of interest for a federal judge to label as frivolous the arguments  
3 of a person who has challenged federal territorial or subject matter jurisdiction in a tax case without involving a jury, and  
4 especially where a jury trial has been demanded. Therefore, any citations of authority citing frivolous arguments in the  
5 context of challenges to federal jurisdiction must have been decided by a jury and not a judge.

## 6 **9 Credibility of advice of tax professionals and tax industry trade publications**

7 During the 1970s and early 1980s, the widespread proliferation of tax shelters, usually bearing the official stamp of approval  
8 of a lawyer's tax opinion, fostered the negative public perception of lawyers as "hired guns" whose help in evading income  
9 taxes could be bought for the right price. One direct and unfortunate result was an erosion of our system of self-assessment.  
10 As the public increasingly believed that most people cheated on their taxes, and that most wealthy individuals and  
11 corporations were assisted in doing so by crafty tax professionals, the stigma attached to "cheating" or "fudging" began to  
12 disappear. The Treasury Department, Congress, the organized bar, and the accounting profession have all attempted to  
13 address the problem.

14 Attorneys advising clients on tax matters owe a dual obligation: they must represent the client fairly and use available legal  
15 means to reduce the client's tax benefits to which she is legally entitled. On the other hand, the attorney also owes an  
16 obligation to the Government and the public to support and implement our self-assessment system. Taking "aggressive"  
17 positions, in the hope that the client's return will not be audited, violates the duty owed to the public when the position is  
18 legally unsupportable. By counseling such positions, or acquiescing in them, the lawyer is assisting in the evasion of taxes,  
19 with a resulting loss both of tax revenue and respect for our tax system.

20 Most lawyers are aware of the criminal penalties for aiding and abetting, and many are aware of the civil penalties imposed  
21 by the I.R.C. section 6701. Certainly, most tax advisors would not consciously advise a tax return position that would or  
22 might expose them to such penalties. The problem, however, is not so simple. Because the tax laws are so complex, and  
23 have been so fundamentally and frequently overhauled in the past two decades, the "correct" reporting position is not always  
24 self-evident. Given a choice between a conservative position, which might cost the taxpayer more than he actually, ultimately  
25 owed, and an aggressive position, which might cost the public tax revenues, which position can or should the lawyer advise?  
26 And is the lawyer absolved of any culpability if she advises the client that the position is not supported by adequate authority,  
27 but the client decides to take the position and risk possible penalties?

28 The answers to these questions are continuing to evolve. Standards established by Congress now are based on those of the  
29 American Bar Association ("ABA"), the American Institute of Certified Public Accountants ("AICPA") and the Treasury  
30 Department. Regulations governing practice before the Treasury are known as "Treasury Circular 230," the official title of  
31 which is "Regulations Governing the Practice of Attorneys, Certified Public Accountants, Enrolled Agents, Enrolled  
32 Actuaries and Appraisers before the Internal Revenue Service."

33 This section will describe the various standards articulated over the years and the effect of recent legislation on those  
34 standards, as well as on the penalties for noncompliance with the standards.

### 35 **9.1 Admissibility of statements of Counsel as evidence of a good faith belief**

36 The U.S. Supreme Court has said that the statements of counsel in legal briefs are inadmissible as evidence:

37 *This finding of a continuing investigation, which forms the foundation of the majority opinion, comes from*  
38 *statements of counsel made during the appellate process. As we have said of other unsworn statements which*  
39 *were not part of the record and therefore could not have been considered by the trial court: "Manifestly, [such*  
40 *statements] cannot be properly considered by us in the disposition of [a] case."* *Adickes v. Kress & Co.*, 398 U.S.  
41 144, 157-158, n. 16. *While I do not question the good faith of Government counsel, it is not the business of*  
42 *appellate courts to make decisions on the basis of unsworn matter not incorporated in a formal record.*  
43 *[United States v. Lovasco, 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed. 2d 752 (1977); Justice Stevens, Dissenting]*

### 44 **9.2 The U.S. Supreme Court's opinion on expert advice**

45 On the subject of expert advice about the requirement to file tax returns, the U.S. Supreme Court has said the following:



*This case is not one in which a taxpayer has relied on the erroneous advice of counsel concerning a question of law. Courts have frequently held that "reasonable cause" is established when a taxpayer shows that he reasonably relied on the advice of an accountant or attorney that it was unnecessary to file a return, even when such advice turned out to have been mistaken. See, e.g., United States v. Kroll, 547 F.2d. 393, 395, 396 (CA7 1977); Commissioner v. American Assn. of Engineers Employment, Inc., 204 F.2d. 19, 21 (CA7 1953); Burton Swartz Land Corp. v. Commissioner, 198 F.2d. 558, 560 (CA5 1952); Haywood Lumber & Mining Co. v. Commissioner, 178 F.2d. at 771; Orient Investment & Finance Co. v. Commissioner, 83 U.S.App.D.C. at 75, 166 F.2d. at 603; Hatfried, Inc. v. Commissioner, 162 F.2d. at 633-635; Girard Investment Co. v. Commissioner, 122 F.2d. at 848; Dayton Bronze Bearing Co. v. Gilligan, 281 F. 709, 712 (CA6 1922). This Court also has implied that, in such a situation, reliance on the opinion of a tax adviser may constitute reasonable cause for failure to file a return. See Commissioner v. Lane-Wells Co., 321 U.S. 219 (1944) (remanding for determination whether failure to file return was due to reasonable cause, when taxpayer was advised that filing was not required).*

*When an accountant or attorney advises a taxpayer on a matter of tax law, such as whether a liability exists, it is reasonable for the taxpayer to rely on that advice. Most taxpayers are not competent to discern error in the substantive advice of an accountant or attorney. To require the taxpayer to challenge the attorney, to seek a "second opinion," or to try to monitor counsel on the provisions of the Code himself would nullify the very purpose of seeking the advice of a presumed expert in the first place. See Haywood Lumber, supra, at 771. "Ordinary business care and prudence" do not demand such actions.* [United States v. Boyle, 469 U.S. 241, 250-01 (1985)]

### 9.3 The "Reasonable Basis" Standard

Although neither the American Bar Association (A.B.A.) nor the AICPA directly regulates tax practice, each has a professional code (the ABA's Model Rules of Professional Conduct and the AICPA's Code of Professional Ethics), and each has committees that occasionally issue opinions dealing specifically with tax practice. In 1965 the ABA's Standing Committee on Ethics issued Formal Opinion 314, adopting the infamous "reasonable basis" for the position, with no attendant duty to disclose or "red flag" the position on the return. In 1977 the AICPA adopted a similar "reasonable support" standard.

Opinion 314 characterized the giving of tax advice and the representation of clients under tax audit as adversarial, and concluded that the lawyer's role in each should be governed by the same ethical rules governing litigation. The failure to distinguish between advising with respect to a return, and representing the client under audit, prompted many to question the Opinion and to predict serious erosion of the voluntary compliance system. Nonetheless, the reasonable basis standard prevailed, perhaps because it mirrored the tax system's standard for taxpayer behavior: the no-fault penalty of section 6662(d) was not introduced until 1982, so that only the negligence penalty was available to curtail taxpayer manipulation of the system. A reasonable basis for the return position thus shielded both the client and the lawyer from sanctions.

Because reliance on advice of a lawyer after full disclosure provides a defense of criminal sanctions and the negligence and fraud penalties, and because some lawyers interpreted the reasonable basis standard as permitting favorable opinions on very dubious positions, the situation deteriorated seriously in the 1970's. Taxpayers sought favorable opinions to insure against penalties, and lawyers stretched the reasonable basis standard to accommodate the clients' tax-minimizing goals, particularly in the area of tax shelter offerings. As one judge observed in acquitting a taxpayer of criminal charges:

*"Surely it would be unfair to judge the client's criminal liability on a stricter standard than his lawyer's ethical obligation. [ . . . ]*

*The scheme in the instance case is a very aggressive one. The Court is somewhat shocked that it was approved by competent counsel. [ . . . ] The planning, particularly the A.B.A. opinion, tends to take a rather cavalier attitude towards obviously questionable schemes.* [United States v. Yorke, unpublished opinion, D.Md. July 19, 1976]

The ABA's Standing Committee reacted to the mounting criticism by issuing Formal Opinion 346 in 1981, setting forth stricter guidelines for the issuance of "tax opinions" in publicly offered tax shelters. For such offerings, the reasonable basis standard is replaced with requirements that the lawyer assess the likelihood that the claimed tax benefit will be realized by the investors. The Treasury amended Treasury Circular 230 to incorporate the tax shelter standards of Opinion 346.

Meanwhile, the Congress decided in 1982 to enact the no-fault penalty of section 6662(d), under which a taxpayer (but not his advisor) could be penalized for understatements of income even in the absence of negligence. Enactments of section 6662(d) created a disturbing anomaly: lawyers and accountants apparently could freely advise clients to take a position on a return if there was any reasonable basis for it; taxpayers who reported such positions, without disclosing them, would be liable for the penalty unless there was substantial authority for the position or the position was "red-flagged" on the return.



1 The legislative history of section 6662(d) reveals that Congress intended the “substantial authority” standard to be stricter  
2 than the “reasonable basis” standard. On the other hand, the “substantial authority” standard is less strict than, and requires  
3 less authority than, a “more likely than not to succeed” standard, which section 6662(d) applies to tax shelter items.

#### 4 **9.4 ABA Opinion 85-352**

5 In 1985 the ABA issued Opinion 85-352, in which it abandoned the “reasonable basis” standard, but opted for a completely  
6 new standard to replace it: the new standard requires that the return position have “some realistic possibility of success” if  
7 litigated. The ABA clearly rejected the more stringent “substantial authority” and “more likely than not” standards, and opted  
8 instead for a litigation-oriented standard akin to Rule 11 of the Federal Rules of Civil Procedure. As Opinion 85-352 states:

9 *In summary, a lawyer may advise a reporting position on a return even where the lawyer believes the position*  
10 *probably will not prevail, there is no “substantial authority” in support of the position, and there will be no*  
11 *disclosure of the position on the return. However, the position to be asserted must be one which the lawyer in*  
12 *good faith believes is warranted in existing law or can be supported by a good faith argument for an extension,*  
13 *modification or reversal of existing law. This requires that there is some realistic possibility of success if the*  
14 *matter is litigated. In addition, in his role as advisor, the lawyer should refer to potential penalties and other*  
15 *legal consequences the client take the position advised.*

16 The response to this Opinion was not uniformly enthusiastic. Many believed that the ABA had not sufficiently addressed the  
17 problems created by the reasonable basis standard. In response, the ABA appointed a Special Task Force to study the new  
18 standard. It concluded that the “some realistic possibility of success” standard was intended to be stricter than the “reasonable  
19 basis” standard as interpreted by many lawyers. To provide some guidance, the Special Task Force stated that a position  
20 having only a 5% or 10% chance of success would not meet the new standard, but that one approaching a 30% chance of  
21 success should meet the standard. Report of the Special Task Force on Formal Opinion 85-352, 39 Tax Lawyer 635, 638  
22 (1986). The new standard is thus stricter than the “reasonable basis” standard, but more lenient than the “substantial  
23 authority” standard.

24 Obviously, Opinion 85-352 did not cure the anomaly created by the taxpayer standard of section 6662(d) (substantial  
25 authority) being stricter than the standard governing lawyers (reasonable basis and later “some realistic possibility of  
26 success”).

#### 27 **9.5 Treasury Circular 230**

28 “Circular 230” is the shorthand description of regulations issued by the Treasury Department governing practice before the  
29 IRS. Congress granted the Treasury Department authority to “regulate the practice of representatives of persons” before the  
30 Department and to suspend or disbar representatives who are “incompetent” or “disreputable” or who “violate regulations.”  
31 31 U.S.C. §330. Regulations issued under this statute are found in Part 10 of Title 31 of the Code of Federal Regulations and  
32 in Treasury Circular 230, as revised from time to time. Treasury Circular 230 governs all persons authorized to practice  
33 before the IRS: lawyers, accountants, enrolled actuaries, and enrolled agents.

34 The right to practice before the IRS is statutory. 5 U.S.C. §500. Lawyers in good standing and certified public accountants  
35 have a statutory right to practice before the Service, so long as they file written declarations of their qualifications. Enrolled  
36 agents are individuals who lack the special training of lawyers and certified public accountants, but who qualify for practice  
37 before the IRS by passing certain examinations or by past employment with the IRS. 5 U.S.C. §500. Enrolled actuaries are  
38 authorized by section 10.3(d) of Treasury Circular 230 to practice before the Service.

39 As part of the 1998 Taxpayer Bill of Rights Act 3, Congress extended the common-law privilege of confidentiality of  
40 communication historically enjoyed by attorneys and clients to tax advice furnished to a taxpayer-client by any individual  
41 who is authorized to practice before the Treasury. This new uniform privilege, contained in Code section 7525, applies to  
42 tax advice given after July 22, 1998. The new privilege applies only in non-criminal tax matters before the IRS and non-  
43 criminal tax proceedings in federal court brought by or against the United States. The privilege does not apply to  
44 communications concerning tax shelters (as defined in section 6662(d)(2)(c)(iii)) between a federally-authorized tax  
45 practitioner and a corporation or any of its shareholders or agents. The legislative history cautions that the new privilege  
46 applies only in circumstances in which the attorney-client privilege would exist, and notes that information disclosed to an  
47 attorney for the purpose of preparing the client’s tax return is not privileged.

Thus, not everyone is entitled to practice before the IRS, and the Treasury Department is obligated by statute to regulate the practice of tax law before the IRS. Because the organized bar does not enforce its standard of conduct, such enforcement is left to the states, which show little interest in tax related issues. Thus, if there is to be a uniform standard for all who practice before the Service, and if the enforcement of the standard is to result in disciplinary action against offenders, the Treasury Department, through Circular 230, must establish and enforce the standards.

Between 1986 and 1994 there was controversy over proposed amendments to Circular 230 that would have permitted censuring those who advised return positions that could have subjected the taxpayer to the substantial understatement penalty of section 6662(d). In 1994 the Treasury withdrew these controversial proposals and amended Circular 230 to conform with the “realistic possibility of success” standard adopted by Congress for return preparers under section 6694. In the “Explanation of Changes” contained in the final adoption of the amendments, the Treasury Department explained its reasoning for adopting the “realistic possibility of success” standard:

*To promote consistency in disclosure standards, the Circular 230 rules are patterned after the section 6694 rules and, therefore, a signing preparer must actually disclose (rather than merely advise disclosure of) nonfrivolous return positions that do not satisfy the realistic possibility of success standard. Because Treasury believes the realistic possibility standard is distinct from the not frivolous standard, these amendments to Circular 230 also distinguish between these two standards.*

## 10 Credibility of Revenue Rulings

*The IRS's consistent interpretation of Treasury Regulation § 1.104–1(b) through Revenue Rulings is entitled to deference. As the Supreme Court has explained:*

*[Revenue] Rulings simply reflect the agency's longstanding interpretation of its own regulations. Because that interpretation is reasonable, it attracts substantial judicial deference. Treasury regulations and interpretations long continued without substantial change, applying to unamended or substantially reenacted statutes, are deemed to have received congressional approval and have the effect of law.*

*United States v. Cleveland Indians Baseball Co., 532 U.S. 200, 220 (2001) (internal citations and quotation marks omitted). The IRS's long-standing interpretation of Treasury Regulation § 1.104–1(b) through Revenue Rulings is reasonable, and thus entitled to substantial deference.*  
*[Sewards v. Commissioner of Internal Revenue, 12-72985, \*9 (9th Cir. 5-12-2015)]*

## 11 Who is subject to the I.R.C.?

### 11.1 Presumptions about law or who is subject to it are prohibited

Black's Law Dictionary, Sixth Edition, defines “presumption” as follows:

**presumption.** *An inference in favor of a particular fact. A presumption is a rule of law, statutory or judicial, by which finding of a basic fact gives rise to existence of presumed fact, until presumption is rebutted. Van Wart v. Cook, Okl.App., 557 P.2d. 1161, 1163. A legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence. Port Terminal & Warehousing Co. v. John S. James Co., D.C.Ga., 92 F.R.D. 100, 106.*

*A presumption is an assumption of fact that the law requires to be made from another fact or group of facts found or otherwise established in the action. A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.*

*In all civil actions and proceedings not otherwise provided for by Act of Congress or by the Federal Rules of Evidence, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. Federal Rule of Evidence 301.*

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

American Jurisprudence Legal Encyclopedia 2d defines “presumption” as follows:

American Jurisprudence 2d  
Evidence, §181

A presumption is neither evidence nor a substitute for evidence.<sup>8</sup> Properly used, the term "presumption" is a rule of law directing that if a party proves certain facts (the "basic facts") at a trial or hearing, the factfinder must also accept an additional fact (the "presumed fact") as proven unless sufficient evidence is introduced tending to rebut the presumed fact.<sup>9</sup> In a sense, therefore, a presumption is an inference which is mandatory unless rebutted.<sup>10</sup>

The underlying purpose and impact of a presumption is to affect the burden of going forward.<sup>11</sup> Depending upon a variety of factors, a presumption may shift the burden of production as to the presumed fact, or may shift both the burden of production and the burden of persuasion.<sup>12</sup>

A few states have codified some of the more common presumptions in their evidence codes.<sup>13</sup> Often a statute will provide that a fact or group of facts is prima facie evidence of another fact.<sup>14</sup> Courts frequently recognize this principle in the absence of an explicit legislative directive.<sup>15</sup>

Under the rules of Constitutional due process:

1. Presumptions may not be used to transcend the constraints of the Constitution:

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

2. All persons are presumed innocent until proven guilty with evidence. That means that everyone must be presumed to be a "nontaxpayer" not subject to the I.R.C. until they are proven with evidence to be a "taxpayer" as defined in 26 U.S.C. §7701(a)(14).

*The presumption of innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice. Long ago this Court stated:*

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

3. Beliefs and opinions, including "presumptions", are forbidden to be used as evidence by the Federal Rules of Evidence:

*Federal Rules of Evidence*  
Rule 610. Religious Beliefs or Opinions

**Evidence of the beliefs or opinions of a witness on matters of religion is not admissible** for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.  
[SOURCE: <http://www.law.cornell.edu/rules/fre/rules.htm#Rule610>]

<sup>8</sup> *Levasseur v Field* (Me) 332 A.2d. 765; *Hinds v John Hancock Mut. Life Ins. Co.*, 155 Me 349, 155 A.2d. 721, 85 A.L.R.2d. 703 (superseded by statute on other grounds as stated in *Poitras v R. E. Glidden Body Shop, Inc.* (Me) 430 A.2d. 1113); *Connizzo v General American Life Ins. Co.* (Mo App) 520 S.W.2d. 661.

<sup>9</sup> Inferences and presumptions are a staple of our adversary system of factfinding, since it is often necessary for the trier of fact to determine the existence of an element of a crime—that is an ultimate or elemental fact—from the existence of one or more evidentiary or basic facts. *County Court of Ulster County v Allen*, 442 U.S. 140, 60 L.Ed.2d. 777, 99 S.Ct. 2213.

<sup>10</sup> *Legille v Dann*, 178 U.S.App.DC. 78, 544 F.2d. 1, 191 USPQ 529; *Murray v Montgomery Ward Life Ins. Co.*, 196 Colo. 225, 584 P.2d. 78; *Re Estate of Borom* (Ind App) 562 N.E.2d. 772; *Manchester v Dugan* (Me) 247 A.2d. 827; *Ferdinand v Agricultural Ins. Co.*, 22 N.J. 482, 126 A.2d. 323, 62 A.L.R.2d. 1179; *Smith v Bohlen*, 95 N.C.App. 347, 382 S.E.2d. 812, aff'd 328 N.C. 564, 402 S.E.2d. 380; *Larmay v Van Etten*, 129 V.t. 368, 278 A.2d. 736; *Martin v Phillips*, 235 Va 523, 369 S.E.2d. 397.

<sup>11</sup> Federal Rule of Evidence 301.

<sup>12</sup> §198.

<sup>13</sup> California Evidence Code §§621 et seq.; Hawaii Rules of Evidence, Rules 303, 304; Oregon Evidence Code, Rule 311.

<sup>14</sup> California Evidence Code §602; Alaska Rule of Evidence, Rule 301(b); Hawaii Rule of Evidence, Rule 305; Maine Rule of Evidence, Rule 301(b); Oregon Rule of Evidence, Rule 311(2); Vermont Rule of Evidence, Rule 301(b); Wisconsin Rule of Evidence, Rule 301.

<sup>15</sup> *American Casualty Co. v Costello*, 174 Mich App 1, 435 N.W.2d. 760; *Glover v Henry* (Tex App Eastland) 749 S.W.2d. 502.

4. Presumptions are not evidence and cannot be used as a substitute for evidence.

*This court has never treated a presumption as any form of evidence. See, e.g., A.C. Aukerman Co. v. R.L. Chaides Constr. Co., 960 F.2d. 1020, 1037 (Fed.Cir.1992) (“[A] presumption is not evidence.”); see also Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229 (1935) (“[A presumption] cannot acquire the attribute of evidence in the claimant's favor.”); New York Life Ins. Co. v. Gamer, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938) (“[A] presumption is not evidence and may not be given weight as evidence.”). Although a decision of this court, Jensen v. Brown, 19 F.3d. 1413, 1415 (Fed.Cir.1994), dealing with presumptions in VA law is cited for the contrary proposition, the Jensen court did not so decide. [Ruten v. West, 142 F.3d. 1434 C.A.Fed.,1998]*

5. No judge has or can have the delegated authority to convert a presumption into evidence. If he does, he is:

5.1. Entertaining “political question” in violation of the separation of powers and acting as a legislative rather than judicial officer. See:

Political Jurisdiction, Form #05.004  
<http://sedm.org/Forms/FormIndex.htm>

5.2. Establishing a state sponsored religion where presumption serves as the equivalent of religious faith. See:

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

5.3. “Legislating from the bench” as an officer within the legislative rather than judicial branch, if the conversion from presumption to evidence relates to a statute that is not “positive law”. In effect, he is “creating law” that was not otherwise legal evidence of an obligation. This, in polite terms, is called “judicial activism” and judges who engage in it are subject to impeachment from the bench.

6. Presumptions that impair constitutionally protected rights are a violation of due process:

**“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]

7. Statutes that create presumptions that impair constitutionally guaranteed rights are a violation of due process of law.

*“But where the conduct or fact, the existence of which is made the basis of the statutory presumption, itself falls within the scope of a provision of the Federal Constitution, a further question arises. **It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.** And the state may not in this way interfere with matters withdrawn from its authority by the Federal Constitution, or subject an accused to conviction for conduct which it is powerless to proscribe.”*  
[Bailey v. State of Alabama, 219 U.S. 219 (1911)]

8. Any violation of the above requirements is a violation of due process of law that renders a void judgment that is unenforceable.

*“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)]

It is a violation of due process to “assume” or “presume” anything in a legal setting. “Presumption”, in fact, is the OPPOSITE of “due process”, as the definition of “due process” admits in Black’s Law Dictionary:

**“Due process of law.** Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs. **A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.** To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, **he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance.** Pennoyer v. Neff, 96 U.S. 733, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard,

by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. **If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law [and in fact is a VIOLATION of due process.]**  
[Black's Law Dictionary, Sixth Edition, p. 500; Emphasis added]

Furthermore, even with evidence, the federal courts do not have the authority to declare anyone a "taxpayer". Only YOU can do it, because only you can determine whether you want to be a customer of government protection called a "taxpayer"! Only AFTER you have made that decision, called yourself a "taxpayer", or acted like a "taxpayer" by Invoked the protection franchise agreement called the Internal Revenue Code, Subtitle A in your defense may the government or the court enforce it against you.

"And by statutory definition the term "taxpayer" includes any person, trust or estate **subject to** a tax imposed by the revenue act. ...Since the statutory definition of taxpayer is exclusive, the federal [and state] courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..."  
[C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d.18 (1939)]

Specifically, Rowen seeks a declaratory judgment against the United States of America with respect to "whether or not the plaintiff is a taxpayer pursuant to, and/or under 26 U.S.C. §7701(a)(14)." (See Compl. at 2.) **This Court lacks jurisdiction to issue a declaratory judgment "with respect to Federal taxes other than actions brought under section 7428 of the Internal Revenue Code of 1986," a code section that is not at issue in the instant action. See 28 U.S.C. §2201; see also Hughes v. United States, 953 F.2d. 531, 536-537 (9th Cir. 1991)** (affirming dismissal of claim for declaratory relief under § 2201 where claim concerned question of tax liability). Accordingly, defendant's motion to dismiss is hereby GRANTED, and the instant action is hereby DISMISSED.  
[Rowen v. U.S., 05-3766MMC. (N.D.Cal. 11/02/2005)]

If the federal courts cannot declare you to be a "taxpayer" directly, they cannot do it indirectly by PRESUMING you are one!:

**"It is almost unnecessary to say, that what the legislature cannot do directly, it cannot do indirectly. The stream can mount no higher than its source. The legislature cannot create corporations with illegal powers, nor grant unconstitutional powers to those already granted."**  
[Gelpcke v. City of Dubuque, 68 U.S. 175, 1863 W.L. 6638 (1863)]

**"Congress cannot do indirectly what the Constitution prohibits directly."**  
[Dred Scott v. Sandford, 60 U.S. 393, 1856 W.L. 8721 (1856)]

"In essence, the district court used attorney's fees in this case as an alternative to, or substitute for, punitive damages (which were not available). **The district court cannot do indirectly what it is prohibited from doing directly.**"  
[Simpson v. Sheahan, 104 F.3d. 998, C.A.7 (Ill.) (1997)]

**"It is axiomatic that the government cannot do indirectly (i.e. through funding decisions) what it cannot do directly."**  
[Com. of Mass. v. Secretary of Health and Human Services, 899 F.2d. 53, C.A.1 (Mass.) (1990)]

"Almost half a century ago, this Court made clear that the government "may not enact a regulation providing that no Republican ... shall be appointed to federal office." Public Workers v. Mitchell, 330 U.S. 75, 100, 67 S.Ct. 556, 569, 91 L.Ed. 754 (1947). What the \*78 **First Amendment precludes the government\*\*2739 from commanding directly, it also precludes the government from accomplishing indirectly. See Perry, 408 U.S., at 597, 92 S.Ct., at 2697 (citing Speiser v. Randall, 357 U.S. 513, 526, 78 S.Ct. 1332, 1342, 2 L.Ed.2d. 1460 (1958)); see supra, at 2735."**  
[Rutan v. Republican Party of Illinois, 497 U.S. 62, 110 S.Ct. 2729, U.S.Ill. (1990)]

"Similarly, **numerous cases have held that governmental entities cannot do indirectly that which they cannot do directly. See \*841 Board of County Comm'rs v. Umbehr, 518 U.S. 668, 674, 116 S.Ct. 2342, 135 L.Ed.2d. 843 (1996) (holding that the First Amendment protects an independent contractor from termination or prevention of the automatic renewal of his at-will government contract in retaliation for exercising his freedom of speech); El Dia, Inc. v. Rossello, 165 F.3d. 106, 109 (1st Cir.1999) (holding that a government could not withdraw advertising from a newspaper which published articles critical of that administration because it violated clearly established First Amendment law prohibiting retaliation for the exercising of freedom of**



speech); *North Mississippi Communications v. Jones*, 792 F.2d. 1330, 1337 (5th Cir.1986) (same). The defendants violated clearly established Due Process and First Amendment law by boycotting the plaintiffs' business in an effort to get them removed from the college." [Kinney v. Weaver, 111 F.Supp.2d. 831, E.D.Tex. (2000)]

A violation of due process has occurred if anyone in the government, including the judge or the prosecutor, PRESUMES anything that impairs your constitutional rights. This includes the most damaging presumption of all, which is that you are a statutory "U.S. citizen" pursuant to 8 U.S.C. §1401 domiciled in a place that has no rights. The "territories" they are talking about below is the "United States" defined in 26 U.S.C. §7701(a)(9) and (a)(10) where all "taxpayers" maintain a domicile pursuant to 26 U.S.C. §911(d)(3)!

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

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

The above false presumption is rebutted with evidence using the following forms that we encourage you to use during litigation:

1. *Citizenship, Domicile, and Tax Status Options*, Form #10.003  
<http://sedm.org/Forms/FormIndex.htm>
2. *Affidavit of Citizenship, Domicile, and Tax Status*, Form #02.001  
<http://sedm.org/Forms/FormIndex.htm>

The most prevalent unconstitutional presumptions engaged in by the government in tax trials are the following:

1. That you are a statutory "U.S. citizen" pursuant to 8 U.S.C. §1401 as described above. Instead, you are a constitutional but not statutory "citizen" and a "non-resident non-person" pursuant to 8 U.S.C. §1101(a)(21) as described in the above two documents. See:

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

2. That the defendant is a "taxpayer". The foundation of American jurisprudence requires that ALL are presumed to be innocent until proven guilty, which means that they are presumed to be a "nontaxpayer" until proven to be a "taxpayer". In fact, it is a CRIME pursuant to 18 U.S.C. §912 to be a "taxpayer" if you did not already serve in a public office within the U.S. government BEFORE you filled out any tax forms because the I.R.C. doesn't authorize the CREATION of public offices or allow them to be exercised outside the place designated in 4 U.S.C. §72! See:

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

3. That the Internal Revenue Code is legal evidence of an obligation. We prove in section 11.5 that this is simply not the case.
4. That the word "includes" as defined in 26 U.S.C. §7701(c) allows them to add anything they want to a definition within the Internal Revenue Code. This violates the rules of statutory construction and due process of law. It also causes the entire Internal Revenue Code itself to act in effect as a "statutory presumption" and a state-sponsored religion based on belief rather than evidence:

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

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

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

5. That ALL EARNINGS are "income" or "taxable income" or "gross income". This is not the case. Only earnings connected with a "trade or business" and a public office in the U.S. government or originating from within the government are "income".

**"We must reject in this case, as we have rejected in cases arising under the Corporation Excise Tax Act of 1909 (Doyle, Collector, v. Mitchell Brothers Co., 247 U.S. 179, 38 Sup.Ct. 467, 62 L.Ed.--), the broad contention submitted on behalf of the government that all receipts—everything that comes in—are income within the proper definition of the term 'gross income,' and that the entire proceeds of a conversion of capital assets, in whatever form and under whatever circumstances accomplished, should be treated as gross income. Certainly the term 'income' has no broader meaning in the 1913 act than in that of 1909 (see Stratton's Independence v. Howbert, 231 U.S. 399, 416, 417 S., 34 Sup.Ct. 136), and for the present purpose we assume there is no difference in its meaning as used in the two acts."**  
[Southern Pacific Co., v. Lowe, 247 U.S. 330, 335, 38 S.Ct. 540 (1918)]

**"Income has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909 (36 Stat. 112) in the 16<sup>th</sup> Amendment, and in the various revenue acts subsequently passed."**  
[Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174 (1926)]

**"As repeatedly pointed out by this court, the Corporation Tax Law of 1909..imposed an excise or privilege tax, and not in any sense, a tax upon property or upon income merely as income. It was enacted in view of the decision of Pollock v. Farmer's Loan & T. Co., 157 U.S. 429, 29 L.Ed. 759, 15 Sup. St. Rep. 673, 158 U.S. 601, 39 L.Ed. 1108, 15 Sup.Ct.Rep. 912, which held the income tax provisions of a previous law to be unconstitutional because amounting in effect to a direct tax upon property within the meaning of the Constitution, and because not apportioned in the manner required by that instrument."**  
[U.S. v. Whiteridge, 231 U.S. 144, 34 S.Sup.Ct. 24 (1913)]

**"The conclusion reached in the Pollock case.. recognized the fact that taxation on income was, in its nature, an excise..."**  
[Brushaber v. Union Pacific Railroad Co., 240 U.S. 1, 16-17 (1916)]

6. That the only way you can escape tax liability is to be "exempt". In fact, one can be "not subject", without being either "exempt" or an "exempt individual". That condition is described in 26 U.S.C. §7701(a)(31). See:

**Flawed Tax Arguments to Avoid**, Form #08.004, Section 8.13

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

7. That the IRS has the lawful authority to assess you with a tax liability without your consent. This is false, as proven below:

**Why the Government Can't Lawfully Assess Human Beings With an Income Tax Liability Without Their Consent**, Form #05.011

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

If you would like to learn more about the above false presumptions, see:

**Flawed Tax Arguments to Avoid**, Form #08.004

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

## 11.2 Definitions in the Internal Revenue Code limit themselves to government and federal territory only

The best way to challenge illegal or extraterritorial enforcement activity by the government is to use the definitions and the rules of statutory construction to show that you are either not located in a place that the code applies or are not the proper subject of the enforcement. Most of the illegal enforcement of the Internal Revenue Code is instituted by violating the Rules of Statutory Construction and Interpretation. The following memorandum of law explains in detail all the techniques for violating these rules to illegally extending the jurisdiction of the national government. It also explains how to oppose such illegal and unconstitutional abuses.

Legal Deception, Propaganda, and Fraud, Form #05.014  
<https://sedm.org/Forms/FormIndex.htm>

For a summary of the basic Rules of Statutory Construction, see:

1. Section 13 of the above document.
2. Rules of Presumption and Statutory Interpretation, Litigation Tool #01.006  
<https://sedm.org/Litigation/LitIndex.htm>
3. Citizenship Status v. Tax Status, Form #10.011, Section 15  
<http://sedm.org/Forms/10-Emancipation/CitizenshipStatusVTaxStatus/CitizenshipVTaxStatus.htm>

Attempts to illegally enforce statutory franchise codes by violating the Rules of Statutory Construction and Interpretation result in the crime of criminal identity theft, as exhaustively documented in the following:

Government Identity Theft, Form #05.046  
<https://sedm.org/Forms/FormIndex.htm>

Aside from the Constitution itself, the Rules of Statutory Construction and Interpretation are the MAIN limitation upon government power. Any and every attempt to undermine, ignore, or interfere with attempts to enforce or impose them has been identified by the U.S. Congress as the essence of COMMUNISM itself! Communism itself is legally defined as a failure or refusal to recognize the limits on government jurisdiction and authority.

TITLE 50 > CHAPTER 23 > SUBCHAPTER IV > Sec. 841.  
Sec. 841. - Findings and declarations of fact

*The Congress finds and declares that the Communist Party of the United States [consisting of the IRS, DOJ, and a corrupted federal judiciary], although purportedly a political party, is in fact an instrumentality of a conspiracy to overthrow the [de jure] Government of the United States [and replace it with a de facto government ruled by the judiciary]. It constitutes an authoritarian dictatorship [IRS, DOJ, and corrupted federal judiciary in collusion] within a [constitutional] republic, demanding for itself the rights and [FRANCHISE] privileges [including immunity from prosecution for their wrongdoing in violation of Article I, Section 9, Clause 8 of the Constitution] accorded to political parties, but denying to all others the liberties [Bill of Rights] guaranteed by the Constitution [Form #10.002]. Unlike political parties, which evolve their policies and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are secretly [by corrupt judges and the IRS in complete disregard of, Form #05.014, the tax franchise "codes", Form #05.001] prescribed for it by the foreign leaders of the world Communist movement [the IRS and Federal Reserve]. Its members [the Congress, which was terrorized to do IRS bidding by the framing of Congressman Traficant] have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination [in the public FOOL system] by homosexuals, liberals, and socialists] with respect to its objectives and methods, and are organized, instructed, and disciplined [by the IRS and a corrupted judiciary] to carry into action slavishly the assignments given them by their hierarchical chieftains. Unlike political parties, the Communist Party [thanks to a corrupted federal judiciary] acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members [ANARCHISTS!, Form #08.020]. The Communist Party is relatively small numerically, and gives scant indication of capacity ever to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional Government of the United States ultimately must be brought to ruin by any available means, including resort to force and violence [or using income taxes]. Holding that doctrine, its role as the agency of a hostile foreign power [the Federal Reserve and the American Bar Association (ABA)] renders its existence a clear present and continuing danger to the security of the United States. It is the means*

whereby individuals are seduced [illegally KIDNAPPED via identity theft!, Form #05.046] into the service of the world Communist movement [using FALSE information returns and other PERJURIOUS government forms, Form #04.001], trained to do its bidding [by FALSE government publications and statements that the government is not accountable for the accuracy of, Form #05.007], and directed and controlled [using FRANCHISES illegally enforced upon NONRESIDENTS, Form #05.030] in the conspiratorial performance of their revolutionary services. Therefore, the Communist Party should be outlawed

### 11.3 Statutes with no implementing regulations only apply to the government and NOT you

In addition to looking at the definitions, another way to determine whether a statute applies to the government only or to the general public is to look at whether it has implementing regulations published in the Federal Register. If they do NOT have such regulations, then the statute can only be enforced against the following:

1. A military or foreign affairs function of the United States. [5 U.S.C. §553](#)(a)(1) .
2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5 U.S.C. §553](#)(a)(2) .
3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505](#)(a)(1).

Nearly all of the statutes allegedly enforcing the Internal Revenue Code in fact DO NOT have implementing regulations and therefore only apply to the above subjects, per the Administrative Procedure Act and the Federal Register Act. You can use this knowledge in an IRS due process meeting to challenge illegal enforcement using the following:

*IRS Due Process Meeting Handout*, Form #03.008  
<https://sedm.org/Forms/FormIndex.htm>

For more on how to challenge enforcement jurisdiction in court using this information ,see:

*Federal Enforcement Authority Within States of the Union*, Form #05.032  
<https://sedm.org/Forms/FormIndex.htm>

### 11.4 The I.R.C. repealed itself and all prior revenue statutes when it was codified in 1939

There have been three major versions of the Internal Revenue Code since its inception: 1939; 1954, 1986. If you trace the history of the current Internal Revenue Code, you will find that it began with the 1939 code. All revenue laws prior to the 1939 I.R.C. were repealed when the 1939 code was enacted, as evidenced by 53 Stat. 1, Section 4. In addition to repealing all the previous revenue laws, the 1939 code repealed itself! Below is the language of the repeal:

AN ACT

To consolidate and codify the internal revenue laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States hereinafter codified and set forth as a part of this act under the heading "Internal Revenue Title" are hereby enacted into law.

SEC. 2. CITATION.—This act and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C. ".

SEC. 3. EFFECTIVE DATE.—Except as otherwise provided herein, this act shall take effect on the day following the date of its enactment.

SEC. 4. REPEAL AND SAVINGS PROVISIONS.—(a) The Internal Revenue Title, as hereinafter set forth, is intended to include all general laws of the United States and parts of such laws, relating exclusively to internal revenue, in force on the 2d day of January 1939 (1) of a permanent nature and (2) of a temporary nature if embraced in said Internal Revenue Title. In furtherance of that purpose, all such laws and parts of laws codified herein, to the extent they relate exclusively to internal revenue, are repealed, effective, except as provided in section 5, on the day following the date of the enactment of this act.

(b) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue,

and may be enforced in the same manner, as if said repeal had not been made; nor shall any office, position, employment, board, or committee, be abolished by such repeal, but the same shall continue under the pertinent provisions of the Internal Revenue Title.

(c) All offenses committed, and all penalties or forfeitures incurred under any statute hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed.

(d) All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this act had not been passed.

(e) The authority vested in the President of the United States, or in any officer or officers of the Treasury Department, by the law as it existed immediately prior to the enactment of this act, hereafter to give publicity to tax returns required under any internal revenue law in force immediately prior to the enactment of this act or any information therein contained, and to furnish copies thereof and to prescribe the terms and conditions upon which such publicity may be given or such copies furnished, and to make rules and regulations with respect to such publicity, is hereby preserved. And the provisions of law authorizing such publicity and prescribing the terms, conditions, limitations, and restrictions upon such publicity and upon the use of the information gained through such publicity and the provisions of law prescribing penalties for unlawful publicity of such returns and for unlawful use of such information are hereby preserved and continued in full force and effect.

SEC. 5. CONTINUANCE OF EXISTING LAW.—Any provision of law in force on the 2d day of January 1939 corresponding to a provision contained in the Internal Revenue Title shall remain in force until the corresponding provision under such Title takes effect.

SEC. 6. ARRANGEMENT, CLASSIFICATION, AND CROSS REFERENCES.—The arrangement and classification of the several provisions of the Internal Revenue Title have been made for the purpose of a more convenient and orderly arrangement of the same, and, therefore, no inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular section or provision or portion thereof, nor shall any out-line, analysis, cross reference, or descriptive matter relating to the contents of said Title be given any legal effect.

SEC. 7. EFFECT UPON SUBSEQUENT LEGISLATION.—The enactment of this act shall not repeal nor affect any act of Congress passed since the 2d day of January 1939, and all acts passed since that date shall have full effect as if passed after the enactment of this act; but, so far as such acts vary from, or conflict with, any provision contained in this act, they are to have effect as subsequent statutes, and as repealing any portion of this act inconsistent therewith.

SEC. 8. COPIES AS EVIDENCE OF ORIGINAL.—Copies of this act printed at the Government Printing Office and bearing its imprint shall be conclusive evidence of the original Internal Revenue Code in the custody of the Secretary of State.

SEC. 9. PUBLICATION.—The said Internal Revenue Code shall be published as a separate part of a volume of the United States Statutes at Large, with an appendix and index, but without marginal references; the date of enactment, bill number, public and chapter number shall be printed as a headnote.

SEC. 10. INTERNAL REVENUE TITLE.—The Internal Revenue Title, heretofore referred to, and hereby and herein enacted into law, is as follows:..  
[Internal Revenue Code of 1939, 53 Stat. 1]

You can find the Internal Revenue Code of 1939 language above on the web at:

Internal Revenue Code of 1939

<http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201939.pdf>

Subsequent versions of the 1939 code did not enact Title 26 of the U.S. Code into positive law either. There have been two major revisions of the I.R.C. since the 1939 code: 1954 Code and 1986 Code. Both of these codes referred to themselves simply as “amendments”, but what they amended was a repealed code that was dead! If you look at the list of amendments in the 1954 code, it doesn’t even list the sections of the previous 1939 code that were changed, and the reason it doesn’t is because it is amending a dead, inactive, and repealed code! That is why the Internal Revenue Code is not only not positive law, but is not law at all. Instead, it is a “code of repealed laws” that have no force and effect at all against anyone who does not explicitly consent in some way. Consequently, any legal trials based on the Internal Revenue Code are simply religious inquisitions and not valid legal proceedings by any stretch of the imagination.



1 The 'enactment' of the I.R.C. of 1954 was not the enactment into law of *everything* contained in that title, it was only the  
2 designation of the 1954 code as the new official "prima facie evidence" of the actual laws being represented by "code" (some  
3 of the more significant of which-- such as what is reflected in chapter 24 of the current code-- had been enacted after 1939).  
4 That is, prior to the 1954 code, the 1939 code was the official prima facie (conveniently indicative, but not legally definitive)  
5 evidence of the actual law-in-force. With the adoption of the 1954 code, the new version became that official "prima facie  
6 evidence".

7 Even the limited significance of this "enactment" is not as significant as it appears at first glance, because even the  
8 replacement of the 1939 code as prima facie evidence of the statutes is only partial. Section 7851 of the 1954 code contains  
9 extensive specifications as to which parts of the 1939 code are replaced by 1954 provisions, and to which specific things  
10 those limited replacements apply, making clear that much of the 1939 code remains the official codified representation of the  
11 actual statutes. For instance, Section 7851(a)(1)(A) reads as follows:

12 (1) SUBTITLE A.—

13 (A) Chapters 1, 2, 4, and 6 of this title shall apply only with respect to taxable years beginning after December  
14 31, 1953, and ending after the date of enactment of this title, and with respect to such taxable years, chapters 1  
15 (except sections 143 and 144) and 2, and section 3801, of the Internal Revenue Code of 1939 are hereby repealed.

16 The new 1954 code is a far less useful version, as it turns out. This is because those portions of the 1954 code purporting to  
17 represent laws-in-force prior to 1939 (which includes the vast majority of the internal revenue laws currently in effect) are  
18 actually just representations of the 1939 code representations of those laws, and with a great deal of consolidation and re-  
19 arrangement (ostensibly for the purpose of brevity or better organization). Only those statutes passed since the last 1939  
20 code had been published are freshly represented in the 1954 code, a fact expressed in its "Derivation Tables" referenced at  
21 the end of this section.

22 The same is true of the "1986 code" (which is, in fact, nothing but the 1954 code with a new name, per Pub. L. 99-514, Sec.  
23 2, Oct. 22, 1986, 100 Stat. 2095), which is why the derivation tables for that version contain no references to the 1954 code  
24 at all, but refer directly back to the 1939 code as the source from which all older statutory representations are derived.

25 *"Of the 50 titles, only 23 have been enacted into positive (statutory) law. These titles are 1, 3, 4, 5, 9, 10, 11, 13,*  
26 *14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 44, 46, and 49. When a title of the Code was enacted into positive*  
27 *law, the text of the title became legal evidence of the law. Titles that have not been enacted into positive law are*  
28 *only prima facie evidence of the law. In that case, the Statutes at Large still govern."*

29 [United States Government Printing Office Website;

30 SOURCE: <http://www.gpoaccess.gov/uscode/about.html>]

31 *"Certain titles of the Code have been enacted into positive law, and pursuant to section 204 of title 1 of the Code,*  
32 *the text of those titles is legal evidence of the law contained in those titles. The other titles of the Code are prima*  
33 *facie evidence of the laws contained in those titles. The following titles of the Code have been enacted into positive*  
34 *law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 44, 46, and 49."*

35 [United States House of Representatives Office of the Law Revision Counsel;

36 SOURCE: <http://uscode.house.gov/about/info.shtml>]

37 It will therefore be observed that title 26 is not an enacted title, either when it was first codified in 1939 or in any enactment  
38 since.

39 If you would like to see a history of the genesis of each section of the current Internal Revenue Code published by the U.S.  
40 government, see the following:

*Derivations of Code Sections of the Internal Revenue Codes of 1939 and 1954*, Litigation Tool #09.011

<http://sedm.org/Litigation/LitIndex.htm>

41 Finally, if you would like exhaustive proof of how the Internal Revenue Code has been used to create a state-sponsored  
42 religion in which "presumption" acts as a substitute for religious faith, and the object of worship is the government rather  
43 than the true and living God, see:

*Socialism: The New American Civil Religion*, Form #05.016

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

## 11.5 The I.R.C. is not public law or positive law, but private law that only applies to those who individually consent

You can find a list of specific titles of the U.S. Code that are positive law by examining 1 U.S.C. §204. In addition, each Title of the U.S. Code indicates whether or not it contains positive law. As an example, Title One, General provisions, starts out with:

*"This title has been made positive law by section 1 of the act of July 30, 1947, ch. 388, 61 Stat. 633, which provided in part that: 'Title 1 of the United States Code entitled 'General Provisions,' is codified and enacted into positive law and may be cited as '1 U.S.C. Sec....'"*

Whereas Title 26 makes no statement that it is positive law. Congress just says that I.R. Codes were "enacted" and how they may be cited, but never explicitly says they are "positive law". That means they don't obligate you to anything without your explicit consent in some form. In that sense, they are "private law" and amount essentially to a contract for federal employment.

No reference to the I.R. Code being positive law either in 1 U.S.C. §204 or in the "Title" itself confirms that it is "private law" that applies to specific "persons" rather than "all persons generally".

"The foregoing considerations would lead, in case of doubt, to a construction of any statute as intended to be confined in its operation and effect to the territorial limits over which the lawmaker has general and legitimate power. 'All legislation is prima facie territorial.' Ex parte Blain, L. R. 12 Ch. Div. 522, 528; State v. Carter, 27 N. J. L. 499; People v. Merrill, 2 Park. Crim. Rep. 590, 596. Words having universal scope, such as 'every contract in restraint of trade,' 'every person who shall monopolize,' etc., will be taken, as a matter of course, to mean only everyone subject to such legislation, not all that the legislator subsequently may be able to catch. In the case of the present statute, the improbability of the United States attempting to make acts done in Panama or Costa Rica criminal is obvious, yet the law begins by making criminal the acts for which it gives a right to sue. We think it entirely plain that what the defendant did in Panama or Costa Rica is not within the scope of the statute so far as the present suit is concerned. Other objections of a serious nature are urged, but need not be discussed."

[American Banana Co. v. U.S. Fruit, 213 U.S. 347 at 357-358]

*"The law of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government."*

[Caha v. United States, 152 U.S. 211 (March 5, 1894)]

These specific "persons" are public officers who chose to become "effectively connected" with the U.S. Government income. All such "persons" and "individuals" are employees, instrumentalities, agencies within the U.S. Government. They cannot be private parties because the Supreme Court has held that the ability to regulate private conduct is "repugnant to the Constitution":

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

[City of Boerne v. Flores, Archbishop of San Antonio, 521 U.S. 507 (1997)]

This is confirmed, for instance, by:

1. 26 U.S.C. §6331(a), which is the ONLY person against whom levy and distraint (enforcement) may be instituted.
2. 26 U.S.C. §7343, which defines "person" for the purposes of the criminal provisions of the I.R.C. as:

*"...an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs."*

3. 26 U.S.C. §6671(b), which defines "person" for the purposes of the penalty provisions of the I.R.C. as:

*"...an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs."*

Incidentally, the “duty” they are talking about above is fiduciary duty as a “transferee” over federal payments. This fiduciary duty is then defined in 26 U.S.C. §6903. The fiduciary duty was created when you signed up to be a “trustee” for the Social Security Trust by signing and submitting SSA Form SS-5. A trustee is a person who has a fiduciary duty to the Beneficiary of the trust. Your elected representatives in the District of Columbia are the beneficiary of the trust, which has a domicile in the District of Columbia pursuant to Federal Rule of Civil Procedure 17(b). See the following for exhaustive details on this scam:

Resignation of Compelled Social Security Trustee, Form #06.002

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

Another very important point about codes that are not “positive law” needs to be made here, which is that those codes within the U.S. code which are not “positive law”, such as the Internal Revenue Code, are described simply as “prima facie evidence” of law. 1 U.S.C. §204 and the notes thereunder describe the I.R.C. as a “code” or a “title”, but NEVER as a “law”. Below is the text of 1 U.S.C. §204 to demonstrate this:

TITLE 1 > CHAPTER 3 > §204

§204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

*In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—*

*(a) United States Code.—*

*The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.*

The term “prima facie evidence” is a fancy legal term or “word of art” that simply means “presumed to be law until rebutted with substantive evidence”. “Prima facie” means “presumed”:

*“Prima facie.* Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; **presumably; a fact presumed to be true unless disproved by some evidence to the contrary.** State ex rel. Herbert v. Whims, 68 Ohio App. 39, 28 N.E.2d. 596, 599, 22 O.O. 110. See also *Presumption*”  
*[Black’s Law Dictionary, Sixth Edition, p. 1189]*

Based on the discussion of “presumption” at:

Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017

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

...and the detailed coverage of “due process” starting in section 5.4.14 of the Great IRS Hoax, Form #11.302, we know that anything involving “presumption” is not only a Biblical sin under Psalm 19:12-13 and Numbers 15:30, but also is a violation of “due process”.

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

*This court has never treated a presumption as any form of evidence. See, e.g., A.C. Aukerman Co. v. R.L. Chaides Constr. Co., 960 F.2d. 1020, 1037 (Fed.Cir.1992) (“[A] presumption is not evidence.”); see also Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229 (1935) (“[A presumption] cannot acquire the attribute of evidence in the claimant’s favor.”); New York Life Ins. Co. v. Gamer, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938) (“[A] presumption is not evidence and may not be given weight as evidence.”). Although a decision of this court, Jensen v. Brown, 19 F.3d. 1413, 1415 (Fed.Cir.1994), dealing with presumptions in VA law is cited for the contrary proposition, the Jensen court did not so decide.*  
*[Routen v. West, 142 F.3d. 1434 C.A.Fed.,1998]*

**“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]

"But where the conduct or fact, the existence of which is made the basis of the statutory presumption, itself falls within the scope of a provision of the Federal Constitution, a further question arises. It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions. And the state may not in this way interfere with matters withdrawn from its authority by the Federal Constitution, or subject an accused to conviction for conduct which it is powerless to proscribe."

[Bailey v. State of Alabama, 219 U.S. 219 (1911)]

It is a violation of due process to "assume" or "presume" that anything is "law" unless it was enacted into positive law and evidence is entered on the record of same. Positive law is the only legitimate or admissible evidence that the people ever consented to the enforcement of an enactment, and without such explicit consent, no enactment is enforceable nor may it adversely affect a person's rights. Once again, the Declaration of Independence says that all just powers derive from "consent", which implies that any compulsion by government absent consent is unjust. The only exception to this rule is the criminal laws, which could not function properly if consent of the criminal was required. "Presumption", in fact, is the OPPOSITE of "due process", as the definition of "due process" admits in Black's Law Dictionary:

**"Due process of law.** Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs. A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights. To give such proceedings any validity, there must be a tribunal competent by its constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by service of process within the state, or his voluntary appearance. Pennoyer v. Neff, 96 U.S. 733, 24 L.Ed. 565. Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not due process of law [and in fact is a VIOLATION of due process.]"

[Black's Law Dictionary, Sixth Edition, p. 500; Emphasis added]

How do we rebut the false "presumption" that the Internal Revenue Code is law using admissible evidence? One way to rebut the fact that the Internal Revenue Code is "law" is to present section 4 of the Internal Revenue Code of 1939 itself, located in 53 Stat. 1, and show that the code repealed all prior revenue laws as well as itself, and therefore is unenforceable. You can also present 1 U.S.C. §204 to show that it is not "law" or "positive law", but is "presumed to be law". Since all presumption which prejudices Constitutional rights is a violation of due process, then the code cannot be used as a substitute for real positive law evidence. The only reason this wouldn't work in a court of law is because a tyrant judge with a conflict of interest (in violation of 18 U.S.C. §208 and 28 U.S.C. §455) who is subject to IRS extortion won't allow such evidence to be admitted at trial because it is too likely to reduce his federal retirement benefits. However, if we put the evidence in our IRS administrative record BEFORE the trial by attaching it to the certified mail correspondence we send them, and keep the original correspondence and the notarized proof that we mailed it, then the corrupt judge can no longer keep it out of evidence and may not grant a motion "in limine" by the Department of Injustice to exclude it as evidence at trial. Our administrative record with the IRS is ALWAYS admissible as evidence.

The authority of the IRS is limited to seeing that a proper "return" (kickback) of U.S. Government property (income) is made by Federal Government "employees" and fiduciaries (Trustees) in the name of "tax". The tax is actually corporate profit that is kicked back to the mother corporation, which is defined as the "United States" in 28 U.S.C. §3002(15)(A). When IRS employees act upon property not within the authority given them by the I.R. Code, they are NOT acting in behalf of the U.S. government and must personally accept the consequences of their illegal actions.

IRS employees and government welfare recipients such as tax attorneys have invented a number of specious and false arguments relating to the fact that the I.R.C. is not "positive law". They will try to exploit your legal ignorance in order to deceive you into thinking that it IS positive law by any one of the following statements. Some have observed these false

statements being made by Mr. Rookyard ([http://www.geocities.com/b\\_rookard/](http://www.geocities.com/b_rookard/)) as he was debated him on the Sui Juris Forums (<http://suijuris.net>). The information below was used to “checkmate” him on each of these issues and thereby exposed his fraud to the large audience there. We have cataloged each false statement and provided a rebuttal you can use against it:

1. **FALSE STATEMENT #1:** “Everything in the Statutes at Large is ‘positive law’. The IRC was published in the Statutes at Large. Therefore, the I.R.C. MUST be positive law.”
2. **REBUTTAL TO FALSE STATEMENT #1:** Not everything in the Statutes at Large is “positive law”, in fact. Both the current Social Security Act and the current Internal Revenue Code (the 1986 code) were published in the Statutes at Large and 1 U.S.C. §204 indicate that NEITHER Title 26 (the I.R.C.) nor Title 42 (the Social Security Act) of the U.S. Code are “positive law”. Therefore, this is simply a false statement. If you would like to see the evidence for yourself, here it is:
  - 2.1. 1 U.S.C. §204:  
<https://www.law.cornell.edu/uscode/text/1/204>
  - 2.2. 1986 Internal Revenue Code, 100 Stat 2085:  
<http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201986.pdf>
  - 2.3. Current Social Security Act: [http://www.ssa.gov/OP\\_Home/ssact/comp-toc.htm](http://www.ssa.gov/OP_Home/ssact/comp-toc.htm)
3. **FALSE STATEMENT #2:** “The Statutes at Large, 53 Stat. 1, say the Internal Revenue Code of 1939 was ‘enacted’. Anything that is ‘enacted’ is ‘law’. Therefore, the 1939 I.R.C. and all subsequent versions of it MUST be positive law.”
4. **REBUTTAL TO FALSE STATEMENT #2:** A repeal of a statute can be enacted, and it produces no new “law”. Seeing the word “enacted” in the Statutes of Law does not therefore necessarily imply that new “law” was created. In fact, you can go over both the current version of 1 U.S.C. §204 and all of its predecessors all the way back to 1939 and you will not find a single instance where the Internal Revenue Code has ever been identified as “positive law”. If you think we are wrong, then show us the proof or shut your presumptuous and deceitful mouth.
5. **FALSE STATEMENT #3:** “The Internal Revenue Code does not need to be ‘positive law’ in order to be enforceable. Federal courts and the I.R.S. call it ‘law’ so it must be ‘law’.”
6. **REBUTTAL TO FALSE STATEMENT #3:** The federal courts are a legislatively but not constitutionally foreign jurisdiction with respect to a state national domiciled in his state on land not subject to exclusive federal jurisdiction under Article 1, Section 8, Clause 17 and who has no contracts or fiduciary relationships with the federal government. This is covered extensively in the *Tax Fraud Prevention Manual*, Form #06.008, Chapter 6. Your statement represents an abuse of case law for political rather than legal purposes as a way to deceive people. Even the IRS’ own Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 says that cases below the Supreme Court may not be cited to sustain a position. Furthermore, if you read the cases to which you are referring, you will find out that the party they were talking about was a “taxpayer”. Because the Internal Revenue Code has no liability statute under Subtitle A, then the only way a person can become a “taxpayer” is by consenting to abide by the Code. If he consented, then the code becomes “law” for him. This is why even the U.S. Supreme Court itself refers to the income tax as “voluntary” in *Flora v. United States*, 362 U.S. 145 (1960). Consent is the ONLY thing that can produce “law”, as we covered in previous sections. The I.R.C. is private law, special law, and contract law that only applies to those who explicitly consent by signing a contract vehicle, such as Forms W-4, an SS-5, or a 1040. Since all of these forms produce an obligation, then all of them are contracts. The obligation cannot exist without signing them, nor can the IRS lawfully or unilaterally assess a person on a 1040 form under 26 U.S.C. §6020(b) who does not first consent. See:

*What is “law”?*, Form #05.048

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

## 12 **IRS Presumption Rules**

The Internal Revenue Code establishes rules by which STATUTORY “withholding agents” under 26 U.S.C. §7701(a)(16) may determine or PRESUME the civil status of those they are doing business with. The following subsections describe these rules, WHERE and TO WHOM they are applicable, and the burden of proof on the government before they are even applicable.

We emphasize up front that conclusive presumptions which impair constitutional rights are unconstitutional and impermissible. A conclusive presumption is one that the party making it may ACT upon the presumption to enforce or impair rights. It is a violation of constitutional due process for people in states of the Union to be victimized by conclusive presumptions that impair constitutional rights. Therefore, the only people who can be the proper subject of such presumptions are NOT protected by the Constitution because either physically present on federal territory or abroad, or engaged in a public office.



For further details on the abuse of presumption to unconstitutionally and criminally impair constitutionally protected rights, see:

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

## **12.1 IRS Presumption Rules do NOT apply to those domiciled in a Constitutional state and protected by the Constitution<sup>16</sup>**

Those responding to tax collection notices from the IRS must employ presumption rules appearing in IRS regulations in order to avoid becoming the target of illegal collection as statutory “nontaxpayers” and “nonresidents”. Those presumption rules are found in 26 C.F.R. §1.1441-1(b)(3):

*26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.*

*(b)General rules of withholding -*

*(3)Presumptions regarding payee's status in the absence of documentation -*

*(i)General rules.*

*A withholding agent that cannot, prior to the payment, reliably associate (within the meaning of paragraph (b)(2)(vii) of this section) a payment of an amount subject to withholding (as described in § 1.1441-2(a)) with valid documentation may rely on the presumptions of this paragraph (b)(3) to determine the status of the person receiving the payment as a U.S. or a foreign person and the person's other relevant characteristics (e.g., as an owner or intermediary, as an individual, trust, partnership, or corporation). The determination of withholding and reporting requirements applicable to payments to a person presumed to be a foreign person is governed only by the provisions of chapters 3 and 4 of the Code and the regulations thereunder. For the determination of withholding and reporting requirements applicable to payments to a person presumed to be a U.S. person, see chapter 61 of the Code, section 3402, 3405, or 3406, and, with respect to the reporting requirements of a participating FFI or registered deemed-compliant FFI, see chapter 4 of the Code and the related regulations. A presumption that a payee is a foreign payee is not a presumption that the payee is a foreign beneficial owner. Therefore, the provisions of this paragraph (b)(3) have no effect for purposes of reducing the withholding rate if associating the payment with documentation of foreign beneficial ownership is required as a condition for such rate reduction. See paragraph (b)(3)(ix) of this section for consequences to a withholding agent that fails to withhold in accordance with the presumptions set forth in this paragraph (b)(3) or if the withholding agent has actual knowledge or reason to know of facts that are contrary to the presumptions set forth in this paragraph (b)(3). See paragraph (b)(2)(vii) of this section for rules regarding the extent to which a withholding agent can reliably associate a payment with documentation.*

*(ii)Presumptions of classification as individual, corporation, partnership, etc. -*

*(A)In general.*

*A withholding agent that cannot reliably associate a payment with a valid withholding certificate or that has received valid documentary evidence under §§ 1.1441-1(e)(1)(ii)(A)(2) and 1.6049-5(c)(1) or (4) but cannot determine a payee's classification from the documentary evidence must apply the rules of this paragraph (b)(3)(ii) to determine the payee's classification as an individual, trust, estate, corporation, or partnership. The fact that a payee is presumed to have a certain status under the provisions of this paragraph (b)(3)(ii) does not mean that it is excused from furnishing documentation if documentation is otherwise required to obtain a reduced rate of withholding under this section. For example, if, for purposes of this paragraph (b)(3)(ii), a payee is presumed to be a tax-exempt organization based on § 1.6049-4(c)(1)(ii)(B), the withholding agent cannot rely on this presumption to reduce the rate of withholding on payments to such person (if such person is also presumed to be a foreign person under paragraph (b)(3)(iii)(A) of this section) because a reduction in the rate of withholding for payments to a foreign tax-exempt organization generally requires that a valid Form W-8 described in § 1.1441-9(b)(2) be furnished to the withholding agent.*

*(B)No documentation provided. If the withholding agent cannot reliably associate a payment with a valid withholding certificate or valid documentary evidence, it must presume that the payee is an individual, a trust, or an estate, if the payee appears to be such person (e.g., based on the payee's name or information in the customer file). In the absence of reliable indications that the payee is an individual, a trust, or an estate, the withholding agent must presume that the payee is a corporation or one of the persons enumerated under § 1.6049-*

<sup>16</sup> Source: *Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017, Section 7.1; <https://sedm.org/Forms/FormIndex.htm>.

4(c)(1)(ii)(B) through (Q) if it can be so treated under § 1.6049-4(c)(1)(ii)(A)(1) or any one of the paragraphs under § 1.6049-4(c)(1)(ii)(B) through (Q) without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in § 1.6049-4(c)(1)(ii)(A)(1) through (Q), then the payee shall be presumed to be a partnership. If such a partnership is presumed to be foreign, it is not the beneficial owner of the income paid to it. See paragraph (c)(6) of this section. If such a partnership is presumed to be domestic, it is a U.S. non-exempt recipient for purposes of chapter 61 of the Code.

(C) Documentary evidence furnished for offshore obligation. If the withholding agent receives valid documentary evidence, as described in § 1.6049-5(c)(1) or (c)(4), with respect to an offshore obligation from an entity but the documentary evidence does not establish the entity's classification as a corporation, trust, estate, or partnership, the withholding agent may presume (in the absence of actual knowledge otherwise) that the entity is the type of person enumerated under § 1.6049-4 (c)(1)(ii)(B) through (Q) if it can be so treated under any one of those paragraphs without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in § 1.6049-4(c)(1)(ii)(B) through (Q), then the payee shall be presumed to be a corporation unless the withholding agent knows, or has reason to know, that the entity is not classified as a corporation for U.S. tax purposes. If a payee is, or is presumed to be, a corporation under this paragraph (b)(3)(ii)(C) and a foreign person under paragraph (b)(3)(iii) of this section, a withholding agent shall not treat the payee as the beneficial owner of income if the withholding agent knows, or has reason to know, that the payee is not the beneficial owner of the income. For this purpose, a withholding agent will have reason to know that the payee is not a beneficial owner if the documentary evidence indicates that the payee is a bank, broker, intermediary, custodian, or other agent, or is treated under § 1.6049-4(c)(1)(ii)(B) through (Q) as such a person. A withholding agent may, however, treat such a person as a beneficial owner if the foreign person provides a statement, in writing and signed by a person with authority to sign the statement, that is attached to the documentary evidence and that states that the foreign person is the beneficial owner of the income.

**(iii) Presumption of U.S. or foreign status.**

A payment that the withholding agent cannot reliably associate with documentation is presumed to be made to a U.S. person, except as otherwise provided in this paragraph (b)(3)(iii), in paragraphs (b)(3)(iv) and (v) of this section, or in § 1.1441-5(d) or (e). A withholding agent must treat a payee that is presumed or known to be a trust but for which the withholding agent cannot determine the type of trust in accordance with the presumptions specified in § 1.1441-5(e)(6)(ii). In the case of a payment that is a withholdable payment, a withholding agent must apply the presumption rule under § 1.1471-3(f) for purposes of chapter 4.

**(A) Payments to exempt recipients -**

(1) In general. If a withholding agent cannot reliably associate a payment with documentation from the payee and the payee is an exempt recipient (as determined under the provisions of § 1.6049-4(c)(1)(ii) in the case of interest, or under similar provisions under chapter 61 of the Code applicable to the type of payment involved, but not including a payee that the withholding agent may treat as a foreign intermediary in accordance with paragraph (b)(3)(v) of this section), the payee is presumed to be a foreign person and not a U.S. person -

(i) If the withholding agent has actual knowledge of the payee's employer identification number and that number begins with the two digits "98";

(ii) If the withholding agent's communications with the payee are mailed to an address in a foreign country;

(iii) If the name of the payee indicates that the entity is the type of entity that is on the per se list of foreign corporations contained in § 301.7701-2(b)(8)(i) of this chapter (and, in the case of a name which contains the designation "corporation" or "company," the withholding agent has a document that reasonably demonstrates the payee was incorporated in the relevant jurisdiction);

(iv) If the payment is made with respect to an offshore obligation (as defined in paragraph (c)(37) of this section); or

(v) With respect to an account opened after July 1, 2014, if the withholding agent has a telephone number for the person outside of the United States.

(B) Scholarships and grants. A payment representing taxable scholarship or fellowship grant income that does not represent compensation for services (but is not excluded from tax under section 117) and that a withholding agent cannot reliably associate with documentation is presumed to be made to a foreign person if the withholding agent has a record that the payee has a U.S. visa that is not an immigrant visa. See section 871(c) and § 1.1441-4(c) for applicable tax rate and withholding rules.

(C) Pensions, annuities, etc. A payment from a trust described in section 401(a), an annuity plan described in section 403(a), a payment with respect to any annuity, custodial account, or retirement income account described in section 403(b), or a payment from an individual retirement account or individual retirement annuity described in section 408 that a withholding agent cannot reliably associate with documentation is presumed to be made to

a U.S. person only if the withholding agent has a record of a Social Security number for the payee and relies on a mailing address described in the following sentence. A mailing address is an address used for purposes of information reporting or otherwise communicating with the payee that is an address in the United States or in a foreign country with which the United States has an income tax treaty in effect and the treaty provides that the payee, if an individual resident in that country, would be entitled to an exemption from U.S. tax on amounts described in this paragraph (b)(3)(iii)(C). Any payment described in this paragraph (b)(3)(iii)(C) that is not presumed to be made to a U.S. person is presumed to be made to a foreign person. A withholding agent making a payment to a person presumed to be a foreign person may not reduce the 30-percent amount of withholding required on such payment unless it receives a withholding certificate described in paragraph (e)(2)(i) of this section furnished by the beneficial owner. For reduction in the 30-percent rate, see §§ 1.1441-4(e) or 1.1441-6(b).

(D) *Payments with respect to offshore obligations.* A payment is presumed made to a foreign payee if the payment is made outside the United States (as defined in § 1.6049-5(e)) with respect to an offshore obligation (as defined in paragraph (c)(37) of this section) and the withholding agent does not have actual knowledge that the payee is a U.S. person. See § 1.6049-5(d)(2) and (3) for exceptions to this rule.

(E) *Certain payments for services.* A payment for services is presumed to be made to a foreign person if -

(1) *The payee is an individual;*

(2) *The withholding agent does not know, or have reason to know, that the payee is a U.S. citizen or resident;*

(3) *The withholding agent does not know, or have reason to know, that the income is (or may be) effectively connected with the conduct of a trade or business within the United States; and*

(4) *All of the services for which the payment is made were performed by the payee outside of the United States.*

(iv) **Grace period.**

A withholding agent may choose to apply the provisions of § 1.6049-5(d)(ii) regarding a 90-day grace period for purposes of this paragraph (b)(3) (by applying the term withholding agent instead of the term payor) to amounts described in § 1.1441-6(c)(2) and to amounts covered by a Form 8233 described in § 1.1441-4(b)(2)(ii). Thus, for these amounts, a withholding agent may choose to treat the payee as a foreign person and withhold under chapter 3 of the Code (and the regulations thereunder) while awaiting documentation. For purposes of determining the rate of withholding under this section, the withholding agent must withhold at the unreduced 30-percent rate at the time that the amounts are credited to an account. For reporting of amounts credited both before and after the grace period, see § 1.1461-1(c)(4)(i)(A). The following adjustments shall be made at the expiration of the grace period:

(A) *If, at the end of the grace period, the documentation is not furnished in the manner required under this section and the account holder is presumed to be a U.S. non-exempt recipient, then backup withholding only applies to amounts credited to the account after the expiration of the grace period. Amounts credited to the account during the grace period shall be treated as owned by a foreign payee and adjustments must be made to correct any underwithholding on such amounts in the manner described in § 1.1461-2.*

(B) *If, at the end of the grace period, the documentation is not furnished in the manner required under this section, or if documentation is furnished that does not support the claimed rate reduction, and the account holder is presumed to be a foreign person then adjustments must be made to correct any underwithholding on amounts credited to the account during the grace period, based on the adjustment procedures described in § 1.1461-2.*

(v) **Special rules applicable to payments to foreign intermediaries -**

(A) *Reliance on claim of status as foreign intermediary.* The presumption rules of paragraph (b)(3)(v)(B) of this section apply to a payment made to an intermediary (whether the intermediary is a qualified or nonqualified intermediary) that has provided a valid withholding certificate under paragraph (e)(3)(ii) or (iii) of this section (or has provided documentary evidence described in paragraph (b)(3)(ii)(C) of this section that indicates it is a bank, broker, custodian, intermediary, or other agent) to the extent the withholding agent cannot treat the payment as being reliably associated with valid documentation under the rules of paragraph (b)(2)(vii) of this section. For this purpose, a U.S. person's foreign branch that is a qualified intermediary defined in paragraph (e)(5)(ii) of this section shall be treated as a foreign intermediary. A payee that the withholding agent may not reliably treat as a foreign intermediary under this paragraph (b)(3)(v)(A) is presumed to be a payee other than an intermediary whose classification as an individual, corporation, partnership, etc., must be determined in accordance with paragraph (b)(3)(ii) of this section to the extent relevant. In addition, such payee is presumed to be a U.S. or a foreign payee based upon the presumptions described in paragraph (b)(3)(iii) of this section. The provisions of paragraph (b)(3)(v)(B) of this section are not relevant to a withholding agent that can reliably associate a payment with a withholding certificate from a person representing to be a qualified intermediary to

the extent the qualified intermediary has assumed primary withholding responsibility in accordance with paragraph (e)(5)(iv) of this section.

(B) Beneficial owner documentation or allocation information is lacking or unreliable. Except as otherwise provided in this paragraph (b)(3)(v)(B), any portion of a payment that the withholding agent may treat as made to a foreign intermediary (whether a nonqualified or a qualified intermediary) but that the withholding agent cannot treat as reliably associated with valid documentation under the rules of paragraph (b)(2)(vii) of this section is presumed made to an unknown, undocumented foreign payee. As a result, a withholding agent must deduct and withhold 30 percent from any payment of an amount subject to withholding. If a withholding certificate attached to an intermediary certificate is another intermediary withholding certificate or a flow-through withholding certificate, the rules of this paragraph (b)(3)(v)(B) (or § 1.1441-5(d)(3) or (e)(6)(iii)) apply by treating the portion of the payment allocable to the other intermediary or flow-through entity as if it were made directly to the other intermediary or flow-through entity. Any payment of an amount subject to withholding that is presumed made to an undocumented foreign person must be reported on Form 1042-S. See § 1.1461-1(c). See § 1.6049-5(d) for payments that are not subject to withholding under chapter 3. However, in the case of a payment that is a withholdable payment made to a foreign intermediary, the presumption rules under § 1.1471-3(f)(5) shall apply.

(vi) **U.S. branches and territory financial institutions not treated as U.S. persons.**

The rules of paragraph (b)(3)(v)(B) of this section shall apply to payments to a U.S. branch or a territory financial institution described in paragraph (b)(2)(iv)(A) of this section that has provided a withholding certificate as described in paragraph (e)(3)(v) of this section on which it has not agreed to be treated as a U.S. person.

(vii) **Joint payees -**

(A) In general. Except as provided in paragraph (b)(3)(vii)(B) of this section and this paragraph (b)(3)(vii)(A), if a withholding agent makes a payment to joint payees and cannot reliably associate the payment with valid documentation from all payees, the payment is presumed made to an unidentified U.S. person. If, however, a withholding agent makes a payment that is a withholdable payment and any joint payee does not appear, by its name and other information contained in the account file, to be an individual, then the entire amount of the payment will be treated as made to an undocumented foreign person. See paragraph (b)(3)(iii) of this section for presumption rules that apply in the case of a payment that is a withholdable payment. However, if one of the joint payees provides a Form W-9 furnished in accordance with the procedures described in §§ 31.3406(d)-1 through 31.3406(d)-5 of this chapter, the payment shall be treated as made to that payee. See § 31.3406(h)-2 of this chapter for rules to determine the relevant payee if more than one Form W-9 is provided. For purposes of applying this paragraph (b)(3), the grace period rules in paragraph (b)(3)(iv) of this section shall apply only if each payee meets the conditions described in paragraph (b)(3)(iv) of this section.

(B) Special rule for offshore obligations. If a withholding agent makes a payment to joint payees and cannot reliably associate a payment with valid documentation from all payees, the payment is presumed made to an unknown foreign payee if the payment is made outside the United States (as defined in § 1.6049-5(e)) with respect to an offshore obligation (as defined in § 1.6049-5(c)(1)).

(viii) **Rebuttal of presumptions.**

A payee or beneficial owner may rebut the presumptions described in this paragraph (b)(3) by providing reliable documentation to the withholding agent or, if applicable, to the IRS.

(ix) **Effect of reliance on presumptions and of actual knowledge or reason to know otherwise -**

(A) General rule. Except as otherwise provided in paragraph (b)(3)(ix)(B) of this section, a withholding agent that withholds on a payment under section 3402, 3405, or 3406 in accordance with the presumptions set forth in this paragraph (b)(3) shall not be liable for withholding under this section even if it is later established that the beneficial owner of the payment is, in fact, a foreign person. Similarly, a withholding agent that withholds on a payment under this section in accordance with the presumptions set forth in this paragraph (b)(3) shall not be liable for withholding under section 3402 or 3405 or for backup withholding under section 3406 even if it is later established that the payee or beneficial owner is, in fact, a U.S. person. A withholding agent that, instead of relying on the presumptions described in this paragraph (b)(3), relies on its own actual knowledge to withhold a lesser amount, not withhold, or not report a payment, even though reporting of the payment or withholding a greater amount would be required if the withholding agent relied on the presumptions described in this paragraph (b)(3), shall be liable for tax, interest, and penalties to the extent provided under section 1461 and the regulations under that section. See paragraph (b)(7) of this section for provisions regarding such liability if the withholding agent fails to withhold in accordance with the presumptions described in this paragraph (b)(3).

(B) Actual knowledge or reason to know that amount of withholding is greater than is required under the presumptions or that reporting of the payment is required. Notwithstanding the provisions of paragraph (b)(3)(ix)(A) of this section, a withholding agent may not rely on the presumptions described in this paragraph

(b)(3) to the extent it has actual knowledge or reason to know that the status or characteristics of the payee or of the beneficial owner are other than what is presumed under this paragraph (b)(3) and, if based on such knowledge or reason to know, it should withhold (under this section or another withholding provision of the Code) an amount greater than would be the case if it relied on the presumptions described in this paragraph (b)(3) or it should report (under this section or under another provision of the Code) an amount that would not otherwise be reportable if it relied on the presumptions described in this paragraph (b)(3). In such a case, the withholding agent must rely on its actual knowledge or reason to know rather than on the presumptions set forth in this paragraph (b)(3). Failure to do so and, as a result, failure to withhold the higher amount or to report the payment, shall result in liability for tax, interest, and penalties to the extent provided under sections 1461 and 1463 and the regulations under those sections.

(x) **Examples.**

The provisions of this paragraph (b)(3) are illustrated by the following examples:

*Example 1.*

A withholding agent, W, makes a payment of U.S. source interest with respect to a grandfathered obligation as described in § 1.1471-2(b) (and thus the payment is not a withholdable payment) to X, Inc. with respect to an account W maintains for X, Inc. outside the United States. W cannot reliably associate the payment to X, Inc. with documentation. Under § 1.6049-4(c)(1)(ii)(A)(1), W may treat X, Inc. as a corporation that is an exempt recipient under chapter 61. Thus, under the presumptions described in paragraph (b)(3)(iii) of this section as applicable to a payment to an exempt recipient that is not a withholdable payment, W must presume that X, Inc. is a foreign person (because the payment is made with respect to an offshore obligation). However, W knows that X, Inc. is a U.S. person who is an exempt recipient. W may not rely on its actual knowledge to not withhold under this section. If W's knowledge is, in fact, incorrect, W would be liable for tax, interest, and, if applicable, penalties, under section 1461. W would be permitted to reduce or eliminate its liability for the tax by establishing, in accordance with paragraph (b)(7) of this section, that the tax is not due or has been satisfied. If W's actual knowledge is, in fact, correct, W may nevertheless be liable for tax, interest, or penalties under section 1461 for the amount that W should have withheld based upon the presumptions. W would be permitted to reduce or eliminate its liability for the tax by establishing, in accordance with paragraph (b)(7) of this section, that its actual knowledge was, in fact, correct and that no tax or a lesser amount of tax was due.

*Example 2.*

A withholding agent, W, makes a payment of U.S. source interest with respect to a grandfathered obligation as described in § 1.1471-2(b) (and thus the payment is not a withholdable payment) to Y who does not qualify as an exempt recipient under § 1.6049-4(c)(1)(ii). W cannot reliably associate the payment to Y with documentation. Under the presumptions described in paragraph (b)(3)(iii) of this section, W must presume that Y is a U.S. person who is not an exempt recipient for purposes of section 6049. However, W knows that Y is a foreign person. W may not rely on its actual knowledge to withhold under this section rather than backup withhold under section 3406. If W's knowledge is, in fact, incorrect, W would be liable for tax, interest, and, if applicable, penalties, under section 3403. If W's actual knowledge is, in fact, correct, W may nevertheless be liable for tax, interest, or penalties under section 3403 for the amount that W should have withheld based upon the presumptions. Paragraph (b)(7) of this section does not apply to provide relief from liability under section 3403.

*Example 3.*

A withholding agent, W, makes a payment of U.S. source dividends to X, Inc. with respect to an account that X, Inc. opened with W after June 30, 2014. W cannot reliably associate the payment to X, Inc. with documentation but may treat X, Inc. as an exempt recipient for purposes of this section applying the rules of § 1.6042-3(b)(1)(vii). However, because the dividend payment is a withholdable payment and W did not determine the chapter 3 status of X, Inc. before July 1, 2014, W may treat X, Inc. as a U.S. person that is an exempt recipient only if W obtains documentary evidence supporting X, Inc.'s status as a U.S. person. See paragraph (b)(3)(iii)(A)(2) of this section.

*Example 4.*

A withholding agent, W, is a plan administrator who makes pension payments to person X with a mailing address in a foreign country with which the United States has an income tax treaty in effect. Under that treaty, the type of pension income paid to X is taxable solely in the country of residence. The plan administrator has a record of X's U.S. social security number. W has no actual knowledge or reason to know that X is a foreign person. W may rely on the presumption of paragraph (b)(3)(iii)(C) of this section in order to treat X as a U.S. person. Therefore, any withholding and reporting requirements for the payment are governed by the provisions of section 3405 and the regulations under that section.

So, 26 C.F.R. §1.1441-1(b)(3)(viii) contain the mechanism for rebutting the presumptions of the IRS about your status and your liability. This is why we call correspondence responding to IRS collection notices as “rebuttal letters”.



26 C.F.R. §1.1441-1(b)(3)(viii)

(viii) **Rebuttal of presumptions.**

*A payee or beneficial owner may rebut the presumptions described in this paragraph (b)(3) by providing reliable documentation to the withholding agent or, if applicable, to the IRS.*

The presumptions that should be challenged, according to 26 C.F.R. §1.1441-1(b)(3), relate to the CIVIL STATUS of the payee and/or the payor of a U.S. sourced payment. This presumption would relate to, for instance:

1. The following STATUTORY civil statuses:
  - 1.1. “citizen of the United States\*\*” or “citizen”.
  - 1.2. “individual”. 26 C.F.R. §1.1441-1(c)(3).
  - 1.3. “person”. 26 U.S.C. §7701(a)(1).
  - 1.4. “U.S. person”. 26 U.S.C. §7701(a)(30).
  - 1.5. “taxpayer”. 26 U.S.C. §7701(a)(14).
  - 1.6. “payee”.
  - 1.7. “payor”.
2. The following geographical definitions used in combination with the above:
  - 2.1. “United States”. 26 U.S.C. §7701(a)(9).
  - 2.2. “State”. 26 U.S.C. §7701(a)(10) and 4 U.S.C. §110(d).

Now you know why we spend so much time on the above definitions. We also cover the abuse or misuse of the above definitions to commit CRIMINAL identity theft in the following memorandum useful in court:

Government Identity Theft, Form #05.046  
<http://sedm.org/Forms/FormIndex.htm>

While we are on this subject of rebutting false government presumptions about your civil status, we know about these statuses and geographical terms the following:

1. The term “United States” and “State” are defined in 26 U.S.C. §7701(a)(9) and (a)(10) as follows:

TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. [Internal Revenue Code]  
Sec. 7701. - Definitions

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

*(9) United States*

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

*(10): State*

*The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.*

2. All statutory “individuals” in the Internal Revenue Code Subtitles A and C:
  - 2.1. Are “aliens” in the STATUTORY “United States” (federal zone or U.S. government) per 26 C.F.R. §1.1441-1(c)(3)(i) . . . OR
  - 2.2. Are statutory “U.S.\*\* citizens” or “U.S.\*\* residents” abroad under 26 U.S.C. §911. They DO NOT include state nationals or Constitutional citizens anywhere in either the CONSTITUTIONAL United States\*\*\* (of America) or the STATUTORY “United States\*\*\*” (federal territory). In this capacity, they are referred to as “qualified individuals” 26 U.S.C. §911(d)(1) rather than merely “individuals”. See 26 C.F.R. §1.1441-1(c)(3).
3. Those who are neither “aliens” physically present in the federal zone nor statutory citizens born in and domiciled in the federal zone and temporarily abroad, nor resident aliens domiciled in the federal zone but temporarily abroad are “non-resident non-persons”. People born within and domiciled within states of the Union would be included in this

category:

Non-Resident Non-Person Position, Form #05.020, Section 5.4  
<http://sedm.org/Forms/FormIndex.htm>

4. If you are not a statutory “individual” or statutory “qualified individual”, then you as a human being CANNOT be a statutory “person”, because statutory “individuals” are a SUBSET of statutory “persons” as indicated in 26 U.S.C. §7701(a)(1).
5. All statutory “taxpayers” who can be or are the target of IRS enforcement activity MUST be public officers on official business. If you are not a lawfully elected or appointed public officer serving in a representative capacity under Federal Rule of Civil Procedure 17(b) and 4 U.S.C. §72, then you cannot be a statutory “taxpayer”. See:
  - 5.1. Why Statutory Civil Law is Law for Government and Not Private Persons, Form #05.037  
<http://sedm.org/Forms/FormIndex.htm>
  - 5.2. Why Your Government is Either a Thief or You Are a “Public Officer” for Income Tax Purposes, Form #05.008  
<http://sedm.org/Forms/FormIndex.htm>
  - 5.3. Proof That There Is a “Straw Man”, Form #05.042  
<http://sedm.org/Forms/FormIndex.htm>
  - 5.4. Correcting Erroneous Information Returns, Form #04.001- proves that you MUST be a public officer in order to be the proper subject of all information return reports of “income”, such as W-2, 1099, 1098, etc.  
<http://sedm.org/Forms/FormIndex.htm>
6. Parties physically present in states of the Union are protected by the Constitution from conclusive presumptions that would impair their PRIVATE constitutional rights or contradict the above facts. A violation of this protection would be a violation of due process of law that would turn a society of law into a society of men. This protection against conclusive presumptions includes immunity from:
  - 6.1. Presumptions that would change or convert your civil status from a “non-resident non-person” to either a “person” or a “taxpayer”. All such presumptions represent CRIMINAL identity theft. See:
    - 6.1.1. Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008  
<https://sedm.org/Forms/FormIndex.htm>
    - 6.1.2. Government Identity Theft, Form #05.046  
<https://sedm.org/Forms/FormIndex.htm>
  - 6.2. IRS Presumption Rules described later in section 12:
7. The rules of statutory construction and interpretation FORBID expanding the above definitions to include anything not EXPRESSLY stated SOMEWHERE in the statutes.

*“It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.”*  
[Bailey v. Alabama, 219 U.S. 219 (1911)]

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

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

8. Judges are NOT legislators and are NOT in the legislative branch. Hence, they CANNOT by fiat extend statutory definitions to include anything they want. If they do, they are violating the separation of powers doctrine and committing a constitutional tort. Below is what the architect of the three branch system of government we have said about doing this:

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

4 Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it  
5 joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge  
6 would be then the legislator. Were it joined to the executive power, the judge might behave with violence and  
7 oppression [sound familiar?].

8 There would be an end of everything, were the same man or the same body, whether of the nobles or of the  
9 people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of  
10 trying the causes of individuals."

11 [. . .]

12 In what a situation must the poor subject be in those republics! The same body of magistrates are possessed,  
13 as executors of the laws, of the whole power they have given themselves in quality of legislators. They may  
14 plunder the state by their general determinations; and as they have likewise the judiciary power in their hands,  
15 every private citizen may be ruined by their particular decisions."

16 [The Spirit of Laws, Charles de Montesquieu, Book XI, Section 6, 1758;

17 SOURCE: [http://famguardian.org/Publications/SpiritOfLaws/sol\\_11.htm](http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm)]

18 If you want to know all the devious word games that corrupt government lawyers, prosecutors, and judges engage in to  
19 CRIMINALLY circumvent the above statutory definitions and limitations and unconstitutionally expand their power, see:

Legal Deception, Propaganda, and Fraud, Form #05.014

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

## 20 **12.2 Burden of Proof upon the Government to prove that the Presumption Rules in 26 C.F.R.** 21 **§1.1441-1(b)(3) apply**<sup>17</sup>

22 IRS Presumption Rules found in 26 C.F.R. §1.1441-1(b)(3) do NOT apply unless and until the government satisfies the  
23 burden of proving the following:

- 24 1. The owner of the property is a statutory "alien", and therefore "individual" (26 C.F.R. §1.1441-1(c)(3)) and "person"  
25 (26 U.S.C. §7701(a)(1)). You cannot be a "payee" who has ANY duty a "withholding agent" to prove ANYTHING  
26 WITHOUT FIRST being a statutory "person" and therefore an "alien".

27 Title 26 › Chapter I › Subchapter A › Part I › Section 1.1441-1

28 26 C.F.R. §1.1441-1 - Requirement for the deduction and withholding of tax on payments to foreign persons.

29 § 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

30 (b) General rules of withholding-

31 (2) Determination of payee and payee's status-

32 (i) In general.

33 [. . .] "a payee is the person to whom a payment is made, regardless of whether such person is the beneficial  
34 owner of the amount (as defined in paragraph (c)(6) of this section)."

36 26 C.F.R. §1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

37 (c ) Definitions

38 (3) Individual.

<sup>17</sup> Source: Flawed Tax Arguments to Avoid, Form #08.004, Section 11.7; <http://sedm.org/Forms/FormIndex.htm>.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

2. The property subject to tax was lawfully converted from PRIVATE to PUBLIC ownership or control by satisfying the burden of proof identified below and in the Separation Between Public and Private Course, Form #12.025.

**SEDM Disclaimer**

**4. Meaning of Words**

The word "private" when it appears in front of other entity names such as "person", "individual", "business", "employee", "employer", etc. shall imply that the entity is:

1. In possession of absolute, exclusive ownership and control over their own labor, body, and all their property. In Roman Law this was called "dominium".
2. On an EQUAL rather than inferior relationship to government in court. This means that they have no obligations to any government OTHER than possibly the duty to serve on jury and vote upon voluntary acceptance of the obligations of the civil status of "citizen" (and the DOMICILE that creates it). Otherwise, they are entirely free and unregulated unless and until they INJURE the equal rights of another under the common law.
3. A "nonresident" in relation to the state and federal government.
4. Not a PUBLIC entity defined within any state or federal statutory law. This includes but is not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any under any civil statute or franchise.
5. Not engaged in a public office or "trade or business" (per 26 U.S.C. §7701(a)(26)). Such offices include but are not limited to statutory "person", "individual", "taxpayer", "driver", "spouse" under any civil statute or franchise.
6. Not consenting to contract with or acquire any public status, public privilege, or public right under any state or federal franchise. For instance, the phrase "private employee" means a common law worker that is NOT the statutory "employee" defined within 26 U.S.C. §3401(c) or 26 C.F.R. §301.3401(c)-1 or any other federal or state law or statute.
7. Not sharing ownership or control of their body or property with anyone, and especially a government. In other words, ownership is not "qualified" but "absolute".
8. Not subject to civil enforcement or regulation of any kind, except AFTER an injury to the equal rights of others has occurred. Preventive rather than corrective regulation is an unlawful taking of property according to the Fifth Amendment takings clause.

Every attempt by anyone in government to alienate rights that the Declaration of Independence says are UNALIENABLE shall also be treated as "PRIVATE BUSINESS ACTIVITY" that cannot be protected by sovereign, official, or judicial immunity. So called "government" cannot make a profitable business or franchise out of alienating inalienable rights without ceasing to be a classical/de jure government and instead becoming in effect an economic terrorist and de facto government in violation of Article 4, Section 4.

"No servant [or government or biological person] can serve **two masters**; for either he will hate the one and love the other, or else he will be loyal to the one and despise the other. **You cannot serve God and mammon [government].**"  
[Luke 16:13, Bible, NKJV]

[SEDM Disclaimer, Section 4: Meaning of Words; SOURCE: <http://sedm.org/disclaimer.htm>]

3. The owner of the property was acting as a public officer on official business and therefore was subject to regulations and supervision. The reason for this is explained in:

Why Your Government is Either a Thief or You Are a "Public Officer" for Income Tax Purposes, Form #05.008  
<https://sedm.org/Forms/FormIndex.htm>

The above is consistent with the following holding by the U.S. Supreme Court, in referencing "congressionally created rights", meaning statutory privileges:

"The distinction between public rights and private rights has not been definitively explained in our precedents.<sup>18</sup> Nor is it necessary to do so in the present cases, for it suffices to observe that a matter of public rights must at a

<sup>18</sup> Crowell v. Benson, 285 U.S. 22, 52 S.Ct. 285, 76 L.Ed. 598 (1932), attempted to catalog some of the matters that fall within the public-rights doctrine:

"Familiar illustrations of administrative agencies created for the determination of such matters are found in connection with the exercise of the congressional

minimum arise “between the government and others.” *Ex parte Bakelite Corp.*, *supra*, at 451, 49 S.Ct., at 413.<sup>19</sup> In contrast, “the liability of one individual to another under the law as defined,” *Crowell v. Benson*, *supra*, at 51, 52 S.Ct., at 292, is a matter of private rights. Our precedents clearly establish that only controversies in the former category may be removed from Art. III courts and delegated to legislative courts or administrative agencies for their determination. See *Atlas Roofing Co. v. Occupational Safety and Health Review Comm’n*, 430 U.S. 442, 450, n. 7, 97 S.Ct. 1261, 1266, n. 7, 51 L.Ed.2d. 464 (1977); *Crowell v. Benson*, *supra*, 285 U.S., at 50-51, 52 S.Ct., at 292. See also Katz, *Federal Legislative Courts*, 43 Harv.L.Rev. 894, 917-918 (1930).FN24 Private-rights disputes, on the other hand, lie at the core of the historically recognized judicial power.”

[ . . . ]

Although *Crowell* and *Raddatz* do not explicitly distinguish between rights created by Congress and other rights, such a distinction underlies in part *Crowell*’s and *Raddatz*’ recognition of a critical difference between rights created by federal statute and rights recognized by the Constitution. Moreover, such a distinction seems to us to be necessary in light of the delicate accommodations required by the principle of separation of powers reflected in Art. III. The constitutional system of checks and balances is designed to guard against “encroachment or aggrandizement” by Congress at the expense of the other branches of government. *Buckley v. Valeo*, 424 U.S., at 122, 96 S.Ct., at 683. **But when Congress creates a statutory right [a “privilege” in this case, such as a “trade or business”], it clearly has the discretion, in defining that right, to create presumptions, or assign burdens of proof, or prescribe remedies; it may also provide that persons seeking to vindicate that right must do so before particularized tribunals created to perform the specialized adjudicative tasks related to that right.**FN35 Such provisions do, in a sense, affect the exercise of judicial power, but they are also incidental to Congress’ power to define the right that it has created. No comparable justification exists, however, when the right being adjudicated is not of congressional creation. In such a situation, substantial inroads into functions that have traditionally been performed by the Judiciary cannot be characterized merely as incidental extensions of Congress’ power to define rights that it has created. Rather, such inroads suggest unwarranted encroachments upon the judicial power of the United States, which our Constitution reserves for Art. III courts. [Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858 (1983)]

For more on the IRS Presumption Rules, see:

*Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction*, Form #05.017, Section 7.1  
<https://sedm.org/Forms/FormIndex.htm>

### 13 So what exactly is the basis for a reasonable belief about tax liability?

The only basis for a reasonable belief is legally admissible evidence of what an enacted tax law actually says. Everything else essentially is based on presumption. 1 U.S.C. §204 establishes what types of legally evidence are admissible under the Federal Rules of Evidence when it says:

TITLE 1 > CHAPTER 3 > § 204  
§ 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of Codes and Supplements

*In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—*

*(a) United States Code.— **The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish prima facie the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: Provided, however, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States***

power as to interstate and foreign commerce, taxation, immigration, the public lands, public health, the facilities of the post office, pensions and payments to veterans.” *Id.*, at 51, 52 S.Ct., at 292 (footnote omitted).

<sup>19</sup> Congress cannot “withdraw from [Art. III] judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.” *Murray’s Lessee v. Hoboken Land & Improvement Co.*, 18 How. 272, 284 (1856) (emphasis added). It is thus clear that the presence of the United States as a proper party to the proceeding is a necessary but not sufficient means of distinguishing “private rights” from “public rights.” And it is also clear that even with respect to matters that arguably fall within the scope of the “public rights” doctrine, the presumption is in favor of Art. III courts. See *Glidden Co. v. Zdanok*, 370 U.S., at 548-549, and n. 21, 82 S.Ct., at 1471-1472, and n. 21 (opinion of Harlan, J.). See also Currie, *The Federal Courts and the American Law Institute*, Part 1, 36 U.Chi.L.Rev. 1, 13-14, n. 67 (1968). Moreover, when Congress assigns these matters to administrative agencies, or to legislative courts, it has generally provided, and we have suggested that it may be required to provide, for Art. III judicial review. See *Atlas Roofing Co. v. Occupational Safety and Health Review Comm’n*, 430 U.S., at 455, n. 13, 97 S.Ct., at 1269, n. 13.



An examination of the [legislative notes under 1 U.S.C. 204](#) then reveals which titles of the U.S. Code are “[positive law](#)” and which are not. Title 26 is not listed as being positive law. Therefore, it constitutes “prima facie” evidence of law. “prima facie” is defined in Black’s Law Dictionary as “presumed to be evidence”:

*“Prima facie. Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumable; a fact presumed to be true unless disproved by some evidence to the contrary. State ex rel. Herbert v. Whims, 68 Ohio App. 39, 28 N.E.2d 596, 599, 22 O.O. 110. See also Presumption”*  
[Black’s Law Dictionary, Sixth Edition, p. 1189]

Therefore, the [Internal Revenue Code](#) is simply “presumed” to be law. Under the rules of Constitutional due process, it cannot adversely affect the rights of anyone protected by the Constitution such as a person domiciled in a state of the Union:

1. All persons are presumed innocent until proven guilty with evidence. That means they are “nontaxpayers” not subject to the I.R.C. until they are proven to be “taxpayers” WITH EVIDENCE.
2. Presumptions are not evidence and cannot be used as a substitute for evidence.

*This court has never treated a presumption as any form of evidence. See, e.g., A.C. Aukerman Co. v. R.L. Chaides Constr. Co., 960 F.2d 1020, 1037 (Fed.Cir.1992) (“[A] presumption is not evidence.”); see also Del Vecchio v. Bowers, 296 U.S. 280, 286, 56 S.Ct. 190, 193, 80 L.Ed. 229 (1935) (“[A presumption] cannot acquire the attribute of evidence in the claimant’s favor.”); New York Life Ins. Co. v. Gamer, 303 U.S. 161, 171, 58 S.Ct. 500, 503, 82 L.Ed. 726 (1938) (“[A] presumption is not evidence and may not be given weight as evidence.”). Although a decision of this court, Jensen v. Brown, 19 F.3d 1413, 1415 (Fed.Cir.1994), dealing with presumptions in VA law is cited for the contrary proposition, the Jensen court did not so decide.*  
[Routen v. West, 142 F.3d 1434 C.A.Fed.,1998]

3. No judge has or can have the delegated authority to convert a presumption into evidence. If he does, he is:
  - 3.1. Entertaining political questions in violation of the separation of powers.
  - 3.2. Establishing a state sponsored religion where presumption serves as the equivalent of religious faith.
  - 3.3. “Legislating from the bench”, if the conversion relates to a statute that is not “positive law”. In effect, he is “creating law” that was not otherwise legal evidence of an obligation.
4. Presumptions that impair constitutionally protected rights are a violation of due process:

*“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]

5. Statutes that create presumptions that impair constitutionally guaranteed rights are impermissible.

*“But where the conduct or fact, the existence of which is made the basis of the statutory presumption, itself falls within the scope of a provision of the Federal Constitution, a further question arises. It is apparent that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions. And the state may not in this way interfere with matters withdrawn from its authority by the Federal Constitution, or subject an accused to conviction for conduct which it is powerless to proscribe.”*  
[Bailey v. State of Alabama, 219 U.S. 219 (1911)]

6. Any violation of the above requirements is a violation of due process of law that renders a void judgment that is unenforceable.

*“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)]

The audience for this pamphlet is only people domiciled either in Heaven or in states of the Union. Therefore:

1. “[presumption](#)” may not be employed by any reader of this pamphlet without violating the Constitution.
2. The [Internal Revenue Code](#) does not constitute a reasonable basis for belief about tax liability, because it requires presumption.

3. The only thing that can be cited is positive law from the Statutes at Large that is not repealed. Everything published in the Statutes at Large that has not been repealed is admissible as non prima-facie evidence of law. The current version of 1 U.S.C. §204 doesn't say that but earlier versions do.

We then investigated further after we learned the above. In particular, we looked at the enactment of the Internal Revenue Code of 1939, 53 Stat. 1. Section 4 of that act says that all prior revenue Laws were repealed by the act, which means that all revenue laws passed before January 2, 1939 were repealed, including those found in the Statutes at Large. Below is the text of that act:

**Internal Revenue Code of 1939, 53 Stat. 1, Section 4**

SEC. 4. REPEAL AND SAVINGS PROVISIONS.— (a) The Internal Revenue Title, as hereinafter set forth, is intended to include all general laws of the United States and parts of such laws, relating exclusively to internal revenue, in force on the 2d day of January 1939 (1) of a permanent nature and (2) of a temporary nature if embraced in said Internal Revenue Title. In furtherance of that purpose, all such laws and parts of laws codified herein, to the extent they relate exclusively to internal revenue, are repealed, effective, except as provided in section 5, on the day following the date of the enactment of this act.

(b) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall any office, position, employment, board, or committee, be abolished by such repeal, but the same shall continue under the pertinent provisions of the Internal Revenue Title.

(c) All offenses committed, and all penalties or forfeitures incurred under any statute hereby repealed, may be prosecuted and punished in the same manner and with the same effect as if this act had not been passed.

(d) All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, hereby repealed shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed, prior to said repeal, may be commenced and prosecuted within the same time as if this act had not been passed.

(e) The authority vested in the President of the United States, or in any officer or officers of the Treasury Department, by the law as it existed immediately prior to the enactment of this act, hereafter to give publicity to tax returns required under any internal revenue law in force immediately prior to the enactment of this act or any information therein contained, and to furnish copies thereof and to prescribe the terms and conditions upon which such publicity may be given or such copies furnished, and to make rules and regulations with respect to such publicity, is hereby preserved. And the provisions of law authorizing such publicity and prescribing the terms, conditions, limitations, and restrictions upon such publicity and upon the use of the information gained through such publicity and the provisions of law prescribing penalties for unlawful publicity of such returns and for unlawful use of such information are hereby preserved and continued in full force and effect.

[SOURCE:

<http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201939.pdf>]

We also showed earlier in section 5 that Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 says that court decisions below the Supreme Court may not be cited to sustain a reasonable belief.

Internal Revenue Manual  
[Section 4.10.7.2.9.8 \(05-14-1999\)](#)  
Importance of Court Decisions

1. "Decisions made at various levels of the court system are considered to be interpretations of tax laws and may be used by either examiners or taxpayers to support a position.

2. Certain court cases lend more weight to a position than others. **A case decided by the U.S. Supreme Court becomes the law of the land and takes precedence over decisions of lower courts. The Internal Revenue Service must follow Supreme Court decisions. For examiners, Supreme Court decisions have the same weight as the Code.**

3. **Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the Service only for the particular taxpayer and the years litigated.** Adverse decisions of lower courts do not require the Service to alter its position for other taxpayers."

[Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8 (05/14/99)

[https://www.irs.gov/irm/part4/irm\\_04-010-007#idm140584529141152](https://www.irs.gov/irm/part4/irm_04-010-007#idm140584529141152)]

Based on the preceding analysis, let us now summarize all the things you CANNOT rely on as a reasonable basis for belief about tax liability so that we can conclude by showing what is left. Below, we have listed the items in descending order of precedence and priority as evidence in a court of law. The items that are “positive law” and which may be enforced have “Yes” in the column entitled “Force of law?”. You can find a subset of the below table at the link below:

Precedence of Law, Family Guardian Fellowship  
<http://famguardian.org/TaxFreedom/LegalRef/PrecOfLaws.htm>

**Table 3: Sources of belief**

Precedence #	Authority	Authority for Publication	Author	Force of Law? (Yes/No)	Evidentiary weight	Authorities
1	Nature's Law		God	No		See: <i>Principles of Natural and Politic Law</i> , J.J. Burlamaqui <a href="https://famguardian.org/PublishedAuthors/Indiv/BurlamaquiJJ/burla_.htm">https://famguardian.org/PublishedAuthors/Indiv/BurlamaquiJJ/burla_.htm</a>
2	<a href="#">God's Law</a>		God	Yes (for Christians)		
3	<a href="#">Common Law</a>		"We the People"	Yes	Real	
4	<a href="#">U.S. Constitution</a>		"We the People"	Yes	Real	
5	<a href="#">Uniform Commercial Code (U.C.C.)</a>		International community	Yes (when enacted into law)	Real	Published by Unidroit, the <a href="#">National Conference of Commissioners on Uniform State Laws</a> , and the <a href="#">American Law Institute</a> . See Note 6 below.
6	<a href="#">State Constitution</a>		"We the People" of the State	Yes	Real	
7	<a href="#">State Statutes</a>		State Congress	Yes	Real	<a href="#">28 U.S.C. §1652</a> , <a href="#">Federal Rule of Civil Procedure 17(b)</a>
8	<a href="#">State Regulations</a>		State Agencies	Yes	Real	
9	<a href="#">Statutes at Large</a>	<a href="#">1 U.S.C. Chapter 2</a>	<a href="#">Congress</a>	Yes. See <a href="#">Note 3</a>	Real	COMPLETE sources: <a href="#">Constitution Society</a> (all years) <a href="#">Library of Congress</a> (1789-1875) <a href="#">What is Taxed</a> (years 1917-present)
10	<a href="#">U.S. Code</a>	<a href="#">1 U.S.C. Chapter 3</a>	<a href="#">Congress</a>	Yes in most cases. See <a href="#">Note 1</a>	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
11	<a href="#">Federal Register (F.R.)</a>	<a href="#">Federal Register Act, 44 U.S.C. Chapter 15</a>		Yes in most but not all cases. See <a href="#">Note 2</a>		
12	<a href="#">Code of Federal Regulations (C.F.R.)</a>	<a href="#">44 U.S.C. Chapter 15</a>	Various	Yes in most but not all cases. See <a href="#">Note 2</a>	Titles that are positive law are "evidence". Titles that are not are "prima facie evidence".	Titles 26, 42, and 50 do not have the force of law and are not "positive law". See 1 U.S.C. §204 legislative notes.
12.1	<a href="#">26 C.F.R. Part 1: Income taxes</a>		<a href="#">Treasury</a>	Yes	Not evidence	
12.2	<a href="#">26 C.F.R. Part 31: Employment taxes</a>		<a href="#">Treasury</a>	Yes	Not evidence	
12.3	<a href="#">26 C.F.R. Part 301: Secretary of Treas. Regs</a>		<a href="#">Treasury</a>	Yes	Not evidence	1. <a href="#">26 U.S.C. §7805(a)</a> . 2. <a href="#">5 U.S.C. §553</a> . 3. <i>Rowan Co., Inc. v. U.S.</i> , <a href="#">452 U.S. 247</a> , 101 S.Ct. 2288, 68 L.Ed.2d. 814 (1981)
12.4	<a href="#">26 C.F.R. Part 601: Procedural Regs</a>		<a href="#">IRS</a>	No* See <a href="#">Note 4</a>	Not evidence	1. <i>Einhorn v. Dewitt</i> , 618 F.2d. 347 (5th Cir. 06/04/1980) 2. <i>Luhring v. Glotzbach</i> , 304 F.2d. 560 (4th Cir. 05/28/1962)
13	<a href="#">Internal Revenue Manual (I.R.M.)</a>		<a href="#">IRS</a>	No* See <a href="#">Note 4</a>	Not evidence	1. <i>U.S. v. Will</i> , 671 F.2d. 963 (1982). Also <a href="#">click here</a> 2. <a href="#">Internal Revenue Manual (I.R.M.)</a> , Section 4.10.7.2.8.

Prec- evidence #	Authority	Authority for Publication	Author	Force of Law? (Yes/No)	Evidentiary weight	Authorities
14	<a href="#">Supreme Court Rulings</a>		<a href="#">Supreme court</a>	Yes	Real	Internal Revenue Manual, Section <a href="#">4.10.7.2.9.8</a>
15	<a href="#">Circuit Court Rulings</a>		<a href="#">Circuit court</a>	No	Not evidence	Internal Revenue Manual, Section <a href="#">4.10.7.2.9.8</a>
16	District Court Rulings		<a href="#">District court</a>	No	Not evidence	Internal Revenue Manual, Section <a href="#">4.10.7.2.9.8</a>
17	<a href="#">IRS Publications</a>		<a href="#">IRS</a>	No	Not evidence	<a href="#">U.S. v. Will</a> , 671 F.2d. 963 (1982). Also <a href="#">click here</a>
18	<a href="#">Treasury Decisions and Orders</a>		<a href="#">Treasury</a>	No	Not evidence	<a href="#">Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8.</a>
19	IRS Telephone or agent advice		<a href="#">IRS</a>	No	Not evidence	Note 7

#### NOTES:

- Only have the force of law if enacted into [positive law](#). The [Internal Revenue Code](#) is not enacted into positive law, and therefore it is only "prima facie evidence" of law. The Statutes at Large from which the I.R.C. is written are the only real "law" you can cite as an authority or evidence in tax litigation.
- Only have the force of law if published and promulgated by the Secretary of the Treasury in the [Federal Register](#) in accordance with the [Administrative Procedures Act, 5 U.S.C. §553](#). All regulations promulgated in the [Federal Register](#) are "legislative regulations".
- The federal Statutes at Large are not available online from the government for any year after 1874. Our link above to the [Statutes at Large](#) is for the period 1789-1873. The ONLY source of these statutes covering all years is a federal depository library (free) or Potomac Publishing (fee service):  
<http://www.potomacpub.com/>
- The internal procedures of the federal agency MUST be followed in any agency action that adversely affects the rights of individuals. See Morton v. Ruiz, shown below. Consequently, all enforcement actions attempted by the IRS must be in strict accordance with the Internal Revenue Manual (I.R.M.) and part 601 of 26 CFR, or the revenue agents can be held personally liable for deprivations of rights under [42 U.S.C. §1983](#).

*"Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This is so even where the internal procedures are possibly more rigorous than otherwise would be required. Service v. Dulles, 354 U.S. 363, 388 (1957); Vitarelli v. Seaton, 359 U.S. 535, 539 -540 (1959). The BIA, by its Manual, has declared that all directives that "inform the public of privileges and benefits available" and of "eligibility requirements" are among those to be published. The requirement that, in order to receive general assistance, an Indian must reside directly "on" a reservation is clearly an important substantive policy that fits within this class of directives. Before the BIA may extinguish the entitlement of these otherwise eligible beneficiaries, it must comply, at a minimum, with its own internal procedures."*  
[Morton v. Ruiz, [415 U.S. 199](#), 94 S.Ct. 1055, 39 L.Ed.2d. 270 (1974)]

- The IRS [Internal Revenue Manual \(I.R.M.\), Section 4.10.7.2.8](#) indicates that all IRS Publications, and by implication all their forms as well, "may not be cited to sustain a position". You will note that several documents fall in this category, including the IRM itself, IRS Publications, and all of their forms.

*Internal Revenue Manual  
[Section 4.10.7.2.8 \(05-14-1999\)](#)  
IRS Publications*

*IRS Publications, issued by the Headquarters Office, explain the law in plain language for taxpayers and their advisors. They typically highlight changes in the law, provide examples illustrating Service positions, and include worksheets. Publications are nonbinding on the Service and do not necessarily cover all positions for a given issue. While a good source of general information, publications should not be cited to sustain a position.  
[Source: <http://www.irs.gov/irm/part4/ch10s11.html>]*

- State statutes INCLUDE the [Uniform Commercial Code \(U.C.C.\)](#). If the Uniform Commercial Code has not been enacted into law by the legislature of the jurisdiction you are in, then you shouldn't use or quote it. We don't know whether the U.C.C., even when enacted by the legislature, is "positive law".
- See the following article:

*[Federal Courts and the IRS' Own IRM Say the IRS is NOT RESPONSIBLE for Its Actions or its Words or for Following Its Own Written Procedures](#), Family Guardian Fellowship  
<http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>*

1 Therefore, the only remaining reasonable basis for belief about tax liability is:

- 2 1. The Constitution of the United States of America.
- 3 2. Enacted positive law from the Statutes at Large AFTER 1939.
- 4 3. Rulings of the Supreme Court and NOT lower federal courts.

5 Next, we must determine WHERE we as a concerned, involved American can find the above sources of REAL law. Based  
6 on researching sources for the above three, we have summarized our findings in the table below:

7 **Table 4: Legitimate sources of belief**

Prec- edence #	Authority	Author	Sources
1	<a href="#">Constitution</a>	"We the People"	1. U.S. Govt: <a href="http://www.gpoaccess.gov/constitution/browse.html">http://www.gpoaccess.gov/constitution/browse.html</a> 2. Findlaw: <a href="http://www.findlaw.com/casecode/constitution/">http://www.findlaw.com/casecode/constitution/</a>
2	<a href="#">Statutes at Large AFTER January 2, 1939</a>	<a href="#">Congress</a>	1. U.S. Govt (1789-1875): <a href="http://memory.loc.gov/ammem/amlaw/lwslink.html">http://memory.loc.gov/ammem/amlaw/lwslink.html</a> 2. Potomac Publishing (fee service, all years. Costs \$900/year for a subscription): <a href="http://www.potomacpub.com/techdata/asp/main/index/index.aspx">http://www.potomacpub.com/techdata/asp/main/index/index.aspx</a>
3	<a href="#">Supreme Court Rulings</a>	<a href="#">Supreme court</a>	1. Supreme Court: <a href="http://www.supremecourtus.gov/">http://www.supremecourtus.gov/</a> 2. Findlaw: <a href="http://www.findlaw.com/casecode/supreme.html">http://www.findlaw.com/casecode/supreme.html</a> 3. Cornell: <a href="https://www.law.cornell.edu/supremecourt/text/home">https://www.law.cornell.edu/supremecourt/text/home</a>

8 Of the Statutes at Large, the U.S. Ninth Circuit Court of Appeals has held the following:

9 *"All persons in the United States are chargeable with knowledge of the Statutes-at-Large.... It is well established*  
10 *that anyone who deals with the government assumes the risk that the agent acting in the government's behalf has*  
11 *exceeded the bounds of his authority"*  
12 *[Bollow v. Federal Reserve Bank of San Francisco, 650 F.2d. 1093, 9<sup>th</sup> Cir., (1981)*  
13 *SOURCE: [http://famguardian.org/Subjects/Taxes/CourtCases/BollowVFedResBankOfSanFran-](http://famguardian.org/Subjects/Taxes/CourtCases/BollowVFedResBankOfSanFran-560F2d1093(9thCir1981).pdf)*  
14 *[560F2d1093\(9thCir1981\).pdf](http://famguardian.org/Subjects/Taxes/CourtCases/BollowVFedResBankOfSanFran-560F2d1093(9thCir1981).pdf)]*

15 Notice they said "all persons" rather than "all PEOPLE". You can't be a civil person under the laws of Congress without a  
16 domicile on federal territory not within the exclusive jurisdiction of a constitutional state. We prove this in:

<i>Why Domicile and Becoming a "Taxpayer" Require Your Consent</i> , Form #05.002 <a href="https://sedm.org/Forms/FormIndex.htm">https://sedm.org/Forms/FormIndex.htm</a>
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17 The U.S. Supreme Court has also said that every man is SUPPOSED TO KNOW THE LAW:

18 *"Every man is supposed to know the law. A party who makes a contract with an officer [of the government]*  
19 *without having it reduced to writing is knowingly accessory to a violation of duty on his part. Such a party aids*  
20 *in the violation of the law."*  
21 *[Clark v. United States, 95 U.S. 539 (1877)]*

22 The most noticeable thing about the above, is that there is no place on any government or commercial website where a  
23 concerned American can read any of the Statutes at Large passed after 1875, which are technically the only REAL, enacted,  
24 positive law available. We find this situation simply appalling. Obviously, Congress does not want Americans reading the  
25 real law or they would make it easy to do so. Instead, they would rather that:

- 26 1. Americans read what essentially amounts to government propaganda called the Internal Revenue Code
- 27 2. Americans base all of their decisions upon essentially hearsay evidence from colleagues, IRS Publications that have
- 28 deliberate lies, and tax professionals with a conflict of interest.
- 29 3. Those who want to read the REAL law from the Statutes at Large must either pay huge sums of money to only ONE
- 30 source, Potomac Publishing, to read it online, or visit a Federal Depository Library at a major university, which in most
- 31 cases is inaccessible and inconvenient to most Americans, and especially those who live in rural areas.



We find the above predicament that our representatives and lawmakers have put us in to be a scandal of monumental proportions that must be fixed before there is ever any hope of returning to a Constitutionally administered tax system. In the meantime, while we are waiting for reforms of the above deficiencies, we believe it constitutes malicious abuse of legal process and conspiracy against rights to hold the average American accountable to obey enacted laws that he can't even read and doesn't have access to. HYPOCRISY!

## **14 Building a strong reliance defense<sup>20</sup>**

A criminal defendant may offer evidence during trial regarding certain statements and representations made by government if those statements relate to his intent and understanding of the law, and many of such statements may qualify as admissions made by the government; see *United States v. Van Griffin*, 874 F.2d. 634, 638 (9th Cir. 1989)(government manuals admissible as party admissions under Federal Rule of Evidence 801(d)(2)(D)); and *United States v. GAF Corp.*, 928 F.2d. 1253 (2nd Cir. 1991). In *Arizona Grocery Co. v. Atchison, T. & S.F. Ry. Co.*, 284 U.S. 370, 52 S.Ct. 183 (1932), it was held that a party could rely upon the representations made by a government agency, and in *Moser v. United States*, 341 U.S. 41, 71 S.Ct. 553 (1951), the Court held that such reliance could constitute a defense to actions taken by the government. These decisions are buttressed by others such as *Raley v. Ohio*, 360 U.S. 423, 79 S.Ct. 1257 (1959), *Cox v. Louisiana*, 379 U.S. 559, 85 S.Ct. 476 (1965), *United States v. Laub*, 385 U.S. 475, 487, 87 S.Ct. 574 (1967), and *United States v. Penn. Industrial Chemical Corp.*, 411 U.S. 655, 674, 93 S.Ct. 1804, 1816 (1973). In *Penn. Industrial*, supra, a company being criminally prosecuted for water pollution sought to assert a defense of reliance upon certain applicable agency regulations, but the trial court precluded the admission of that evidence. In reversing, the Supreme Court held that this reliance did constitute a defense and that the agency representations, the subject regulations, should be given as jury instructions.

The federal appellate courts do recognize the "reliance" defense. One of the earliest cases granting verdict for a defendant on this ground was *United States v. Mancuso*, 139 F.2d. 90, 92 (3rd Cir. 1943). Here, the defendant filed suit to enjoin being drafted and the district court erroneously granted an injunction. Mancuso later used the injunction order as justification for refusing induction. His conviction for refusing enlistment was vacated because of his reliance upon the erroneous order. See also *United States v. Albertini*, 830 F.2d. 985 (9th Cir. 1987).

Other courts have addressed this issue. In *United States v. Tallmadge*, 829 F.2d. 767, 775 (9th Cir. 1987), the defendant was being prosecuted for possessing firearms after conviction for a felony. In defense, Tallmadge demonstrated that a licensed arms dealer, held to be a government agent, represented to him that it was lawful for him to acquire firearms. Because Tallmadge relied upon the word of this government agent, that court held that it would violate due process to convict him:

The prosecution and conviction of Tallmadge for the receipt and possession of firearms, after he was misled by the government agent who sold him the weapons into believing that his conduct would not be contrary to federal law, violated due process.

In *United States v. Clegg*, 846 F.2d. 1221 (9th Cir. 1988), the defendant was charged with arms smuggling in Pakistan and sought to defend himself with the factual defense that high government officials approved his activities; that court held such to be a valid defense. In *United States v. Heller*, 830 F.2d. 150, 154 (11th Cir. 1987), the defendant, a lawyer, was convicted of tax crimes and sought to defend on the basis that his accounting methods conformed with the dictates of a tax court decision. In reversing the convictions, that court held that a jury instruction covering the substance of the tax court decision upon which Heller had relied should have been given. In *United States v. Hedges*, 912 F.2d. 1397 (11th Cir. 1990), the defendant had acted upon the advice given to him by a Standards of Conduct officer regarding a conflict of interest matter. Hedges was prosecuted for conflicts violations, defended himself with the factual argument that he had relied upon the advice of the Standards officer, and tendered a corresponding requested jury instruction which was not given. On appeal, the court acknowledged the validity of this defense and held it was an error to refuse the giving of a jury instruction on this point. In *United States v. Brady*, 710 F.Supp. 290 (D.Colo. 1989), a defendant charged with illegal possession of firearms ("coyote getters") was acquitted when he showed that he directly relied upon the word of a state judge. The most recent case on this issue, *United States v. Levin*, 973 F.2d. 463 (6th Cir. 1992), was one where the trial court dismissed an indictment because of reliance upon a government representation.

Several state courts also acknowledge this defense. In *Schiff v. People*, 111 Colo. 333, 141 P.2d. 892 (1943), the defendant had received stolen property and informed the police about such, who instructed him to simply retain possession; his conviction for possessing stolen property was reversed. In *People v. Markowitz*, 18 N.Y.2d. 953, 223 N.E.2d. 572 (1966), a

<sup>20</sup> Adapted from the article at: <http://famguardian.org/Subjects/Taxes/Articles/reliance.htm>

defendant who was told by certain public officials that he did not need a license to sell merchandise at Yankee Stadium had his conviction vacated through use of this defense. In *State v. Ragland*, 4 Conn. Cir. 424, 233 A.2d 698 (1967), a defendant's conviction for driving without a license was vacated based upon the fact that he drove the car on the occasion in question at the order of police officers. In *Connelly v. State*, 181 Ga.App. 261, 351 S.E.2d. 702 (1987), a defendant who had relied upon a misleading driver's license form had his conviction for driving offenses reversed. In *State v. Chiles*, 569 So.2d. 45 (La.App. 4 Cir. 1990), a pawn shop owner who relied upon the practices of the local sheriff's office had her conviction for failure to abide by record keeping laws reversed. See also *Commonwealth v. Twitchell*, 617 N.E.2d. 609, 616-620 (Mass. 1993), and *State v. McKown*, 475 N.W.2d. 63, 68 (Minn. 1991). The refined essence of these cases is that a criminal defendant does have available to him the defense of reliance upon representations made to him by government officials, whether judges or executive department officers and agents.

Please keep whatever materials you have relied upon. If you have relied upon cases quoted from some book, go get copies of those cases at the law library so that you can assert the defense of reliance upon the word of judges. If you have relied upon a quote of something else which is allegedly derived from a government publication, get that document.

## **15 Defending yourself in a criminal tax proceeding in federal court as a Sui Juris Litigant**

*"My [God's] people are destroyed for lack of knowledge."  
[Hosea 4:6, Bible, NKJV]*

Those who have been criminally prosecuted for acting on their sincere beliefs that they are "nontaxpayers" are encouraged to employ the following useful free resources. The tools are listed in descending order of importance, relevance, and value:

1. *Criminal Tax Manual*, U.S. Dept. of Justice: This is the play book the government uses to prosecute tax crimes.  
<https://www.justice.gov/tax/foia-library/criminal-tax-manual-title-page-0>
2. *U.S. Attorneys' Manual, Department of Justice*: Internal guidance to U.S. attorneys who are your opponents.  
<https://www.justice.gov/usam/united-states-attorneys-manual>
3. *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>
4. *Civil Court Remedies for Sovereigns: Taxation*, Litigation Tool #10.002. Contains pointers on mainly civil tax litigation, but there is a lot of good information here.  
<http://sedm.org/Litigation/LitIndex.htm>
5. *SEDM Litigation Tools Page*: Excellent free litigation tools.  
<http://sedm.org/Litigation/LitIndex.htm>
6. *Legal Research Sources*: Exhaustive free legal resources of every description.  
<http://famguardian.org/TaxFreedom/LegalRef/LegalResrchSrc.htm>
7. *Responding to a Criminal Tax Indictment*, Litigation Tool #10.004  
<http://sedm.org/Litigation/LitIndex.htm>
8. *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>

## **16 God's Religion v. Government's Religion<sup>21</sup>**

Throughout this document and beginning earlier in section 2, we have proven that the way that the Internal Revenue Code is represented and enforced against the public mimics a state sponsored religion in every particular. This section further explains and proves this concept with evidence by comparing God v. Government as competitors for the affection, worship, allegiance, and obedience of the Sovereign People. Both implement religions of their own. Unfortunately, many Americans are fooled by government propaganda into joining and obeying the government's religion. That propaganda and deception is explained in:

<sup>21</sup> See also: *Government has Become Idolatry and a False Religion*, Family Guardian Fellowship,  
<http://famguardian.org/Subjects/Taxes/Articles/Christian/GovReligion.htm>.

Those who believe the government LIES and submit to a franchise “code” and agreement that doesn’t and can’t lawfully apply to them are thereby:

1. Committing the worst sin in the Bible, which is idolatry.
2. Serving two masters.
3. Firing God as their protector.
4. Bringing judgment, slavery, and subjection upon themselves.

Any attempt to treat any government as having more power, authority, or rights than a single human, in fact, constitutes idolatry. All corrupted governments create and promote inequality as a way to profit personally and illegally. By doing so they are indirectly implementing a state-sponsored religion that “worships”/obeys the state rather than the true and living and only God.

The source of all government power in America is The Sovereign People, who are humans and are also called “natural persons”. Any power that did not come from this “natural” source is, therefore “supernatural”. All religions are based on the worship of such “supernatural beings” or “superior beings”.

**“Religion. Man’s relation to Divinity, to reverence, worship, obedience, and submission to mandates and precepts of supernatural or superior beings. In its broadest sense includes all forms of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments. Bond uniting man to God, and a virtue whose purpose is to render God worship due him as source of all being and principle of all government of things. Nikulnikoff v. Archbishop, etc., of Russian Orthodox Greek Catholic Church, 142 Misc. 894, 255 N.Y.S. 653, 663.”**  
[Black’s Law Dictionary, Sixth Edition, p. 1292]

By “worship”, we really mean “obedience” to the dictates of a supernatural or superior being.

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



In this respect, both law and religion are twin sisters, because the object of BOTH is “obedience” and “submission” to a “sovereign” of one kind or another. Those in such “submission” are called “subjects” in the legal field. The only difference between REAL religion and state worship is WHICH sovereign: God or man:

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

A quick way to determine whether you are engaging in idolatry is to look at whether the authority being exercised by a so-called “government” has a “natural” source, meaning whether any human being who is not IN the government can lawfully exercise such authority. If they cannot, you are dealing with a state-sponsored religion and a de facto government rather than a REAL, de jure government. The nature of that de facto government is described in:

Below is a table that compares God's Religion v. Government's Counterfeit Satanic Religion in the context of many of the subjects discussed in the preceding section so that you can see all the parallels. The sheer number of parallels between the two is astounding. Few people even consider these and are amazed when they see them for the first time:

**Table 5: Comparison between God's Religion and Government's Religion**

#	Description	God	Government (socialist church)
1	<b>Lawgiver</b>	God (see Isaiah 33:22)	Legislature or democratic majority
2	<b>Law</b>	Bible	1. Constitution, statutes, regulations (in a republic). 2. Whatever judge or ruler says (tyranny or oligarchy)
3	<b>Purpose of obedience to law</b>	Protection (See Isaiah 54:11-17)	Limited liability/responsibility
4	<b>Mission or goal</b>	Proclaim the gospel Hallowed be thy name, thy Kingdom come thy will be done	Total subjugation of the total man to total government Complete surrender of personal individuality
5	<b>Symbol for the Church</b>	Cross 	National flag 
6	<b>Superior being/object of worship ("Sovereign")</b>	God (deism)	The "state" (humanism)
7	<b>What makes superior being superior</b>	Creator of universe	Grantor of privileges. Not subject to the same laws or rules as everyone else (hypocrisy, inequality)
8	<b>Authority of superior being based on</b>	Power to create	Power to destroy
9	<b>Superior being protects us from</b>	Sin (Mala in se)	Crime and mala prohibitum Their own crimes (protection racket)
10	<b>Source of power</b>	Love	Fear, insecurity
11	<b>Faith in superior being takes the form of</b>	Religious faith	Unsubstantiated "presumption" of authority (see Form #05.017)
12	<b>Object of belief/faith</b>	Trust in God (see Psalm 118:8-9)	Trust in man/flesh (see Jeremiah 17:5-8)
13	<b>Bond uniting man to superior being</b>	Love	1. Government-granted "privileges" (see <i>Government Instituted Slavery Using Franchises</i> , Form #05.030) 2. Covetousness 3. Avoidance of personal liability
14	<b>Property ownership</b>	Families with ONLY PRIVATE ownership	Government with ONLY PUBLIC ownership of everything. All PRIVATE ownership converted to public (socialism) without consent of owner.
15	<b>Rights</b>	Created by God and absolute	Created by government as franchise privileges
16	<b>Ultimate owner of all property</b>	God (Ps. 24:1; 50:12; 1 Cor. 10:26, 28, etc.) Christians are just "stewards"	Government (public property)
17	<b>Scripture</b>	Holy Bible	Codes that are not "positive law"

#	Description	God	Government (socialist church)
			(e.g. the Internal Revenue Code, Social Security Act, Draft laws, etc.)
18	Obedience to scripture of church promoted through	Studying the Bible Prayer	1. Dumbing down in public school 2. Propaganda 3. Deception 4. Keeping the truth secret from church members
19	Lawgiver	God	Man
20	Founding document(s)	Ten Commandments	Declaration of Independence Constitution
21	Members of the church believe that founding document(s) are	Divinely inspired	Divinely inspired
22	Founders of church (founding fathers)	Jesus John the Baptist David Moses Paul Apostles	Franklin Delano Roosevelt (socialist) George Washington Thomas Jefferson
23	Place of worship	Church building	Court Government buildings
24	Priests called	Pastors (also believers (1 Peter 2:5))	Judges
25	Priests appointed by	Ordination ceremony	Passing the bar Presidential appointment
26	Clergy of church	Deacons	Licensed attorneys
27	Role of leaders	Servants of the people	Masters (Lords)
28	Attire of priests	Black robe	Black robe
29	School to become priests	Seminary	Law school
30	Source of virtue	"God" and His worship	Man, "Self" and "Vain Rulers"
31	Influence spread through	1. Evangelizing. 2. Missionary work. 3. Good example.	1. Deceit. 2. Rewarding irresponsibility. 3. Promotion and exploitation of legal ignorance. 4. Fear, uncertainty, insecurity introduced through media and demagoguery. 5. Propaganda. 6. Military and political warfare. 7. Bribing sheep into submission with government benefits derived from stolen/extorted tax money.
32	Main attraction of church membership	Forgiveness for sin/salvation	Legalization of sin or immorality Limited liability
33	Pleadings to the superior being (Sovereign) for help take the form of	Prayer	Prayer (Petitions to courts are sometimes called "prayers" and those that go in front of the Supreme Court are still called "prayers")
34	Persons who violate Scripture are called	Sinners ( <u>G</u> od's laws)	Criminals (man's/ <u>g</u> od's laws) Political dissidents
35	Method of dealing with evil	Obedience to God's word Repentance and regeneration Excommunication Exorcism	Court and/or jail



#	Description	God	Government (socialist church)
36	Failure of man to deal with evil in their own life	Eternal separation from God	Separation from Society (neo-god)
37	Ultimate punishment exists in	Hell	Jail
38	Disciples called	Apostles (qty 12) Christians	Petit Jury (qty 12) Grand Jury (qty 12)
39	Title of Priest	Pastor Bishop (All Christians (1 Peter 2:5))	"Your Honor"
40	Contributions to church called	Tithes (limited to 10%) Gifts	Taxes or tribute (unlimited)
41	Contributions to church are	Voluntary	Mandatory and punitive (enforced illegally by the authority of non-positive law)
42	Contributions to the church are used for	Charity Grace Social Justice	To compete with churches in charity and grace
43	Joining the church requires	Allegiance to God	Allegiance to the state (collective) ABOVE God
44	How people join church	Being baptized as a statement that their domicile is in Heaven and NOT Earth (James 4:4)	1. Choosing a civil domicile within the jurisdiction of the government (see: <a href="http://sedm.org/Forms/05-MemLaw/Domicile.pdf">http://sedm.org/Forms/05-MemLaw/Domicile.pdf</a> ) 2. Swearing a naturalization oath. (see <a href="http://www.uscourts.gov/uscourts/8USC/8USC1448.html">8 U.S.C. §1448</a> ) 3. Signing a tax form under penalty of perjury. 4. Being born within the jurisdiction of the church.
45	Change in legal status from joining	God gives us a new name (Rev. 2:17, Rev. 14:1, Rev. 22:4)	Members assigned number (SSN, TIN. The BEAST. 666) Become "human resource" Appointed as public officer of government.
46	Change in wealth from joining church	Redeemed are blessed with all spiritual blessings (Eph. 1:3, 4:7)	Stripped of all wealth and all property. Everything held as public officer managing government property. Taxed into poverty.
47	Church members called	Saints Sheep Chosen God's people Congregation Church Godly ones Redeemed Holy Priesthood Royal Priesthood	Taxpayers Citizens Residents Inhabitants Persons
48	Salvation occurs through	Faith in the Person and work of the Lord Jesus Christ	Denying personal responsibility and surrendering personal sovereignty to the state (passing buck to government)
49	Management of church called	Board of elders	Citizens Civil servants Bureaucrats

#	Description	God	Government (socialist church)
			Public servants Public officers Corporate boards
50	Enforcement unit for church	Board of elders	IRS
51	Members disciplined through	Excommunication	Jail Fines, fees, and penalties
52	Confession held with	Priest Ministers with integrity	Judge (entering a plea)
53	Confessions are communicated	Orally to priest or minister	Entering a plea to judge On a tax form
54	Money paid to priest during confession	Absolves you of liability for sin	Absolves you of tax liability and threat of prison and jail
55	Those who oppose church doctrine are called	Heretic	Frivolous
56	View towards those who break laws of the church ("sin")	Repentance	Tolerance (except those who refuse to subsidize the group, who are "nontaxpayers", who get intolerance)
57	Court trials among believers focus on	Law that was violated	Political persecution (franchise court)
58	Missionaries ("Come to Jesus")	Volunteers Ministers	U.S. Department of Justice IRS revenue agents Police
59	Purpose of sex within church	Procreation	Recreation Fornication
60	Truth is	Absolute and sovereign	Relative to whoever is in charge (and whatever corrupted politicians will let even more corrupted judges get away with before they get removed from office for misconduct)

Isn't that interesting? The other thing you MUST conclude after examining the above table is that if anyone in government is a "superior being" relative to any human in the society they govern, then the government unavoidably becomes an idol and a god to be "worshipped" and submitted to as if the government or its servants individually were a religion. In the feudal system of British Common Law from which our legal system derives, they even call judges "Your Worship":

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

We started with a government of law and not of men but we ended up with the opposite because of our apathy and ignorance:

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

A government run by judges, instead of law is called a "kritarchy". Such a government is described as a government of men and not of law. Since judges are also "public servants", then a "kritarchy" also qualifies as a "dulocracy":

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

The book of Judges in the Bible shows what happens to a culture that trusts in man and the flesh and their own feelings rather than in God's law for their sense of justice and morality. Below is an excerpt from our Bible introducing the Book of Judges to make the moral lessons contained in the book crystal clear:

*The Book of Judges stands in stark contrast to Joshua. In Joshua an obedient people conquered the land through trust in the power of God. In Judges, however, a disobedient and idolatrous people are defeated time and time again because of their rebellion against God.*

*In seven distinct cycles of sin to salvation, Judges shows how Israel had set aside God's law and in its place substituted "what was right in his own eyes" (21:25). The recurring result of abandonment from God's law is corruption from within and oppression from without. During the nearly four centuries spanned by this book, God raises up military champions to throw off the yoke of bondage and to restore the nation to pure worship. But all too soon the "sin cycle" begins again as the nation's spiritual temperance grows steadily colder.*

...

*The Book of Judges could also appropriately be titled "The Book of Failure."*

***Deterioration*** (1:1-3:4). *Judges begins with short-lived military successes after Joshua's death, but quickly turns to the repeated failure of all the tribes to drive out their enemies. The people feel the lack of a unified central leader, but the primary reasons for their failure are a lack of faith in God and lack of obedience to Him (2:1-2). Compromise leads to conflict and chaos. Israel does not drive out the inhabitants (1:21, 27, 29, 30); instead of removing the moral cancer [IRS, Federal Reserve?] spread by the inhabitants of Canaan, they contract the disease. The Canaanite gods [money, sex, covetousness] literally become a snare to them (2:3). Judges 2:11-23 is a microcosm of the pattern found in Judges 3-16.*

***Deliverance*** (3:5-16:31). *In verses 3:5 through 16:31 of the Book of Judges, seven apostasies (fallings away from God) are described, seven servitudes, and seven deliverances. Each of the seven cycles has five steps: sin, servitude, supplication, salvation, and silence. These also can be described by the words rebellion, retribution, repentance, restoration, and rest. The seven cycles connect together as a descending spiral of sin (2:19). Israel vacillates between obedience and apostasy as the people continually fail to learn from their mistakes. Apostasy grows, but the rebellion is not continual. The times of rest and peace are longer than the times of bondage. The monotony of Israel's sins can be contrasted with the creativity of God's methods of deliverance.*

***Depravity*** (17:1-21:25). *Judges 17:1 through 21:25 illustrate (1) religious apostasy (17 and 18) and (2) social and moral depravity (19-21) during the period of the judges. Chapters 19-21 contain one of the worst tales of degradation in the Bible. Judges closes with a key to understanding the period: "everyone did what was right in his own eyes" (21:25) [a.k.a. "what FEELS good"]. The people are not doing what is wrong in their own eyes, but what is "evil in the sight of the Lord" (2:11).*

*[The Open Bible, New King James Version, Thomas Nelson Publishers, Copyright 1997, pp. 340-341]*

The hypocrisy and idolatry represented by a government of judges or of men rather than law not only violates the first and greatest Commandment in the Bible found in Exodus 20:3 and Matt. 22:37-38, but is also more importantly violates the First Amendment to the U.S. Constitution:

**First Amendment:**

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

How do government servants make themselves or the government they are part of into a "superior being"? Here are just a few highly unethical and evil ways:

1. Writing laws that apply to everyone but them.
2. Enforcing laws against everyone BUT themselves.
3. Abuse official, judicial, or sovereign immunity to make themselves exempt from all laws EXCEPT those the government individually and expressly consents to while refusing the ability of the average American to do the same thing.
4. Refusing to recognize or protect the First Amendment right of people NOT to be a CUSTOMER of the civil protection called a "citizen" or "resident" and to thereby be protected ONLY by the common law and the constitution RATHER than the civil law. This makes government essentially into a criminal protection racket in which "taxes" are really nothing more than a bribe to get criminals in government to CIVILLY leave you alone. Since justice is the right to be left alone, it also produces INJUSTICE. Government are nothing more than a "body corporate" whose only product is

“protection”. What other corporation can FORCE you to buy their product? A government founded to provide PROTECTION that won’t even protect you from ITSELF has no business collecting monies to protect you from anyone ELSE.

5. Imputing to themselves more rights or methods of acquiring rights than the people themselves have. In other words, who are the object of PAGAN IDOL WORSHIP because they possess “supernatural” powers. By “supernatural”, we mean that which is superior to the “natural”, which is ordinary human beings.
6. Printing (counterfeiting) unlimited amounts of money to fund their socialist takeover of America while putting everyone else into jail for doing the same thing. This is the main purpose of the corrupt Federal Reserve.
7. Having a monopoly on anything, INCLUDING “protection”, and who turn that monopoly into a mechanism to force EVERYONE illegally to be treated as uncompensated public officers in exchange for the “privilege” of being able to even exist or earn a living to support oneself.
8. Making judges, juries, or any decision maker into either federal benefit recipients or "taxpayers" in tax cases, thus making the judge and/or jury into criminals with a financial conflict of interest that makes it impossible to win against the government in any proceeding involving the violation of the tax or franchise codes.
9. Abusing executive enforcement powers to "selectively enforce" against political enemies to protect their own self-interest rather than the interest of the average American.
10. Lying with impunity in ALL of their publications and not being responsible for the accuracy of ANY of their government publications, and especially tax publications
11. Forcing everyone who wants their help to sign under penalty of perjury with accurate and truthful information while not being EQUALLY accountable for doing the same when they communicate with the public.
12. Enforcing laws outside their territory, thus abusing the legal system as an excuse to engage in acts of international LEGALIZED terrorism.
13. Lying to or misleading a grand jury and not be held accountable for it because they would have to prosecute themselves if they did.
14. Corrupt judges suppressing admission of evidence in court that is would undermine their power or control over society. This is especially true in cases against wrongdoers in government.
15. Corrupt judges making cases unpublished where the government was litigated against and lost, thus preventing them from being cited as precedent.

Nonpublication.com

<http://www.nonpublication.com/>

16. Corrupt judges threatening prosecuting attorneys with loss of licenses for corruption cases against themselves or anyone in government.
17. Corrupt judges telling juries that they must rule in the case based on what the judge says is the law rather than based on a reading of the actual law. This substitutes the judge's will for what the law says, violates the separation of powers, and makes the judge into the judge, jury, and executioner and the people into SLAVES.
18. Abuse the legal system to terrorize and persecute Americans for their political activities or to coerce them into giving up some right that the law entitles them to. Most Americans can’t afford legal representation and government abuses this vulnerability by litigating maliciously and endlessly against their enemies to terrorize them into submission and run up their legal bills. This makes their victims into a financial slave of an expensive attorney who is licensed by the same state he is litigating against, which imparts a conflict of interest that prejudices the rights of his client.

[TITLE 18](#) > [PART 1](#) > [CHAPTER 77](#) > Sec. 1589.

Sec. 1589. - Forced labor

**Whoever knowingly provides or obtains the labor or services of a person -**

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

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

By making itself a “superior being” relative to the people it governs and serves and using the color but not actual force of law to compel the people to pay homage to and “worship” and to serve it with their stolen labor (extorted through illegally enforced income taxes), Congress has mandated a religion, with all the many necessary characteristics found in the legal definition of “religion” indicated above, and this is clearly unconstitutional. The only way to guarantee the elimination of the conflict of law that results from putting government above the people is to:

1. Make God the sovereign over all of creation.
2. Make the people **servants to God** and His *fiduciary agents*.
3. Create government as a **servant to the People** and their fiduciary agent. Make the only source of government authority that of protecting the people from evil, injustice, and abuse.

*There is no other rational conclusion one can reach based on the above analysis. There is simply no other way to solve this logical paradox of government becoming a religion in the process of making itself superior to the people or the "U.S. citizens".* The definition of "religion" earlier confirmed that God must be the origin of earthly government, when it said:

*"Bond uniting man to God, and a virtue whose purpose is to render God worship due him as source of all being and **principle of all government of things**."*

One of our readers, Humberto Nunez, wrote a fascinating and funny article showing just how similar government and most religions really are:

#### GOVERNMENT IS A PAGAN CULT AND WE'VE ALL BEEN DRINKING THE KOOL AID

By: Humberto Nunez

*Government is a pagan cult. When you join the Armed Forces, the first thing they do is shave your head. Just like in many cults, where they shave your head. The Army also uses sleep deprivation in Boot Camp, just like many cults do, to brainwash their people.*

*Secret Service Agents are willing to "die for their beliefs" (in defense of The President: their cult leader).*

*Many men say that they would "die for their country". This is a form of pagan Martyrdom for the pagan cult State.*

*Many today say that "religion has caused more war... " and blah blah blah.*

*But the fact is that governments send out draft cards, not churches. Governments started WWI and WWII, not religion. In fact, during times of peace governments hate religion because religion is the governments' #1 competition for allegiance, and during times of war, governments use religion for their own agenda.*

*Another similarity to cults: FBI Agents even dress similar to Mormons, and have the same type of haircuts. Many cults have a dress code of some kind, just like in the Army, and even in the Corporate world.*

*When you join the Moonies you would probably end up selling flowers for them, and the Moonies will keep all the profits from the work you do. When you work today, the pagan cult State takes your profits (in the form of income taxes), and they won't let you leave their cult (the State). If you attempt to not pay your taxes, you would be arrested and branded a criminal.*

*Now, I did a little research into the symptoms and signs of a cult and found these 5 Warning Signs: (to distinguish a cult from a 'normal' religion)*

1. The organization is willing to place itself above the law; this is probably the most important characteristic.
2. The leadership dictates, (rather than suggests) important personal (as opposed to spiritual) details of followers' lives, such as whom to marry, what to study in college, etc.
3. The leader sets forth ethical guidelines members must follow but from which the leader is exempt.
4. The group is preparing to fight a literal, physical Armageddon against other human beings.
5. The leader regularly makes public assertions that he or she knows is false and/or the group has a policy of routinely deceiving outsiders.

*Now, let's break these down one by one.*

1. The organization is willing to place itself above the law; this is probably the most important characteristic.

*Example: Death Penalty.*

*What is the purpose and intention behind State sponsored Death Penalty? The primary purpose and intention behind State sponsored Death Penalty is not to deter crime, nor is it to be tough on crime. To understand the purpose and intent behind this, we must study psychology, in particular, behavioral psychology; like in training a dog. To train a dog, one must use behavioral modification techniques. For example, the primary purpose and*



intention behind anti-smoking laws is to get you to obey the State. Before you can train a dog to kill, you must first train the dog to obey simple commands; like sit, and roll over. The same is true of recycling laws. Glass bottles are actually much safer for the environment than plastic bottles. The primary purpose and intention behind recycling laws is not to save the environment, it is a behavioral modification technique to get the people to obey the Government.

Now, back to State sponsored death penalty laws. The primary purpose and intention behind Death Penalty laws is to get people used to the idea that the State is above the law. It is illegal for people to kill and to murder. With State sponsored Death Penalty laws, the State is Above the Law.

There you have symptom #1:

1. The organization is willing to place itself above the law; this is probably the most important characteristic.

2. The leadership dictates, (rather than suggests) important personal (as opposed to spiritual) details of followers' lives, such as whom to marry, what to study in college, etc.

I can give a dozen examples of this behavioral modification ploy of cults. Recycling and anti-smoking laws were two examples I explained above. Dictating the behavior of Americans today is pervasive throughout our entire society.

3. The leader sets forth ethical guidelines members must follow but from which the leader is exempt.

We can see this today very clearly when it comes to violence. Many Americans today are forced to attend Anger Management Courses while at the same time the State uses violence (like in the Iraq War).

4. The group is preparing to fight a literal, physical Armageddon against other human beings.

Three words: War on Terrorism

5. The leader regularly makes public assertions that he or she knows is false and/or the group has a policy of routinely deceiving outsiders.

I don't think that last symptom (of a cult) needs further explanation.

Well there you have it; the Government has all of the 5 major signs/symptoms of being a cult.

For the philosophy behind The Nature of Government I recommend this read:

[http://www.apfn.org/apfn/nature\\_gov.htm](http://www.apfn.org/apfn/nature_gov.htm)

It is A MUST READ for all Americans and all freedom loving peoples of the world. It is so good that if I start quoting from it, I'll just end up pasting the entire article here in my article. So I'll just leave it at that and say you the reader here MUST READ IT.

Now, the atheist says "Show me God." I say, "Show me government." I do not believe in the existence of government. Now hold your horses, I know that sounds silly at first, but let me explain.

Let's say you were on a ship full of people. Now the people in that ship went insane and started hallucinating, thinking that you were an alien from another planet and that you must be killed. If those people on that ship killed you, you would really be dead, literally. Just because of the reality of the consequences of that mass hallucination (you being dead) does not prove that you were really an alien. It just proves that the people were suffering from mass hallucination. So, just because the so-called 'government' can arrest you and put you in jail, that does not prove the existence of government. It just proves mass hallucination.

Let's start again now:

The atheist says "Show me God." I say, "Show me government." Now don't tell me the White House. That is not 'government'. That is a building. That's just as if I were to show an atheist a church (a building), that would not prove the existence of God.

Ok now, you might show me a Police Officer in uniform, and offer proof on how he can actually arrest me, to prove the existence of Government.

Well, I can show an atheist a priest in uniform, but that would not prove the existence of God. Even if Congress gave priests the authority to arrest people on the streets that would still not prove the existence of God to an atheist. Just like a cop in uniform does not prove the existence of government, it only proves that the people are suffering from mass hallucination.

People today are obsessed with the laws of the pagan-cult State. The Constitution, the Bill of Rights, etc. etc, people meditating day and night on the 'laws' of the pagan-cult State, as opposed to the Law of God. Thomas Jefferson, Benjamin Franklin, these men have become cult figures. They have replaced Abraham, Isaac, Jacob, Noah, Moses, as the men of God to be pondered on and studied.

#### **Sacrifice for Protection**

In ancient times, people performed human sacrifice to their pagan false gods for 'Protection' from the gods. They believed their gods also played the role of 'Provider' by performing human sacrifice for rain for their crops for example.

Today, the U.S. Fed. Govt. is asking for "Sacrifice for Protection". The State today is now saying that the people must sacrifice their Freedoms and Liberties for 'Protection' from terrorism (demons, evil spirits, etc.) and that the State will then 'Provide' them with safety.

This is metaphorically a form of human sacrifice. It is not a human sacrifice where you literally kill someone (like in the Death Penalty), but it is a "human" sacrifice. I mean, the State is not asking the animals to sacrifice their Freedoms and Liberties, it is asking us humans, so it is a "human" sacrifice as opposed to an 'animal' sacrifice in that sense. Also, there is death involved; the death of our Freedoms and Liberty.

By the way, State sponsored Death Penalty is another form of human sacrifice for the pagan-cult State, and State sponsored abortion is a form of child sacrifice for this pagan-cult State.

#### **Black Robes: Judges and Devil worshippers**

Judges wear Black Robes just like Devil worshippers. The Judges' Desk is the Altar of Baal. They bring men tied up in handcuffs before the altar (Judges' desk) and these men are for the human sacrifice and the entire court proceeding is a satanic ritual.

Sounds crazy? Is it a coincidence that the 'language of the court' is Latin (ex: Habeas Corpus) just like the 'language of a Catholic Exorcism' is also in Latin? Lawyers speak Latin in the court room just like Priests use Latin when performing exorcisms when you have a 'case' of full DEMONIC POSSESSION.

Also, the same type of 'respect' a Priest would expect from a visitor to his church is the same type of respect a Judge expects in his court room. There's even a penalty for disobeying this 'respect'; it's called "Contempt of Court".

Another psychological conditioning behavior modification technique being applied on the American Public is this: Television shows like Judge Judy, Judge Joe, all these People's Courts television shows. The primary intention and purpose behind these so-called Court Room Justice shows is to condition the public to get used to entering a court room with NO Trial by Jury. In not one of any of these types of shows do you ever see a Trial by Jury; that is not a mistake, it is intentional, and by design.

I can go on and on with this article and offer a million more details.

To conclude, if the U.S. Govt. plans to attack Iran, North Korea, etc. in the future. And if there is the possibility that this War on Terrorism might lead to WWII. Then, that is nothing but pagan-cult MASS SUICIDE. And the U.S. Govt. is a pagan cult, and WE'VE ALL BEEN DRINKING THE KOOL AID. [Does Jim Jones from Ghana ring a bell?]

Now, some readers of this article (especially neo-conservatives) would automatically brand me an Anarchist. I am not an Anarchist, what I am questioning is the role of government. According to the Founding Fathers of America, the role of government was to protect your Individual Rights. NOT TO TAKE THEM AWAY.

And finally, if the people will not serve God, they will end up serving and being slaves of government. I am sure many Christians would believe this, and even some followers of eastern philosophies; for this is a form of 'Bad Karma'.

And, if man will not serve God, then woman will not serve man. This is also a form of 'bad karma' [and it may also explain why the divorce rate is so high].

Another fascinating and funny article that helps to clarify just how God-like our government has become is as follows:

**The Ten Commandments of the U.S. Government, Family Guardian Fellowship**

*I. I am the Lord of the Talmud, thou shalt have no Biblical God before me.*

*II. Thou shalt not make unto thee any but Satanic images: the witch, symbol of the city government and police department of Salem, Massachusetts; the five-pointed occult pentagram of Sirius, of the state religion of Egypt, emblem of the Department of Defense and our Armed Forces, and the badge of U.S. law enforcement at all levels; the pyramid of Pharaoh, capped by the all-Seeing Eye of Horus, emblazoned on the currency in the denomination of one shekel.*

*III. Thou shalt not take the name of thy god in vain: thou shalt not blaspheme the name Rabbi, Israeli, Zionism, "U.S. government", or any politician or agency.*

*IV. Remember the Wal Mart sale on the Sabbath Day, and keep it holy by spending. Seven days must thou labor, that thereby thou shalt spend ever more.*

*V. Honor thy son and thy daughter. Neither spank nor say no to them when they seek to consume the sex and violence that is dangled before them from every lawful venue. Thy daughter shalt dress like a cheap harlot from the age of eight onward, and thy son shall engage in bloody video games, likewise from his eighth year. All of these are legal and profitable, saith the Lord.*

*VI. Thou shalt not kill the molester of 150 children in his prison cell, and thou shalt condemn the convict who executes the molester, lest such justice be encouraged, and lest it be known that the convict had greater common sense and honor than a legion of our judges.*

*VII. Thou shalt commit adultery and televise and popularize it throughout the land, and broadcast it into Afghanistan and Iraq, that thereby the Muslims shall be vouchsafed a share in our democracy and freedom.*

*VIII. Thou shalt not steal from us, for we detest competition.*

*IX. Thou shalt indeed bear false witness, for by perjury our Law is established.*

*X. Covet thy neighbor's goods and thy neighbor's wife, for thereby doth our Order prosper.*

I'll bet you never even dreamed that there were so many parallels between Christianity and government, did you? I'll bet you also never thought of government as a religion, but that is exactly what it has become. The idea of making government a religion or creating false idols for the people to worship is certainly not new. Here is an example from the bible, where "cities" are referred to as "gods". Notice this passage also criticizes evolutionists when it says "Saying to.. a stone 'you gave birth to me.'". Evolutionists believe that we literally descended from rocks that evolved from a primordial soup:

*"As the thief is ashamed when he is found out,  
So is the house of Israel ashamed;  
**They and their kings and their princes, and their priests and their prophets,**  
**Saying to a tree, "You are my father,"**  
**And to a stone, "You gave birth to me."**  
For they have turned their back to Me, and not their face.  
But in the time of their trouble  
They will say, "Arise and save us."  
But where are your gods [governments] that you have made for yourselves?  
Let them arise,  
If they can save you in the time of your trouble;  
**For according to the number of your cities**  
**Are your gods, O Judah.**"  
[Jeremiah 2:26-28, Bible, NKJV]*

Leaders know that if you can get people to worship false idols and thereby blaspheme God with their sin, then you can use this idolatry to captivate and enslave them. For instance, in the Bible in 1 Kings Chapters 11 and 12, we learn that Solomon disobeyed the Lord by marrying foreign wives and worshipping the idols of these foreign wives. When Solomon died, his son Rehoboam hardened his heart against God and alienated his people. Then he fought a competitor named Jeroboam over the spoils of his vast father's remnant kingdom (1 Kings 12). The weapon that Jeroboam used to compete with Rehoboam was the creation of a false idol for the ten tribes of Israel that were under his leadership. This false idol consisted of two calves of solid gold. The false idol distracted ten of the 12 tribes of Israel from wanting to reunite with the other two tribes

and worship the true God. To this day, the twelve tribes have never again been able to reunite, because they were divided by idolatry toward false gods. Here is a description of how Jeroboam did it from 1 Kings 12:25-33:

#### Golden Calves at Bethel and Dan

<sup>25</sup> Then Jeroboam fortified Shechem in the hill country of Ephraim and lived there. From there he went out and built up Peniel.

<sup>26</sup> Jeroboam thought to himself, "The kingdom will now likely revert to the house of David. <sup>27</sup> If these people go up to offer sacrifices at the temple of the LORD in Jerusalem, they will again give their allegiance to their lord, Rehoboam king of Judah. They will kill me and return to King Rehoboam."

<sup>28</sup> After seeking advice, the king made two golden calves. He said to the people, "It is too much for you to go up to Jerusalem. Here are your gods, O Israel, who brought you up out of Egypt." <sup>29</sup> One he set up in Bethel, and the other in Dan. <sup>30</sup> And this thing became a sin; the people went even as far as Dan to worship the one there.

<sup>31</sup> Jeroboam built shrines on high places and appointed priests from all sorts of people, even though they were not Levites. <sup>32</sup> He instituted a festival on the fifteenth day of the eighth month, like the festival held in Judah, and offered sacrifices on the altar. This he did in Bethel, sacrificing to the calves he had made. And at Bethel he also installed priests at the high places he had made. <sup>33</sup> On the fifteenth day of the eighth month, a month of his own choosing, he offered sacrifices on the altar he had built at Bethel. So he instituted the festival for the Israelites and went up to the altar to make offerings.

[1 Kings 12:25-33, Bible, NIV]

Similar to Jeroboam, our present government conquers the people by encouraging them to become distracted with false idols. These false idols include:

1. **Government.** This translates into worship of and slavery to government through the income tax and an obsession with petitioning government to protect people from discrimination or punishment for the consequences of their sins, including homosexuality, dishonesty, and infidelity.
2. **Money.** They use this lust for money to divide and conquer and control families by getting them fighting over money within their marriage. They encourage people to get marriage licenses they never needed in order to get jurisdiction over the spouses and their assets, and then they make it so easy to get divorced that it becomes economically attractive to marry people for their money. This means that people get married for all the wrong reasons, and make themselves into slaves of the state in the process of using the state courts as a vehicle to plunder their partner using community property laws.
3. **Sex.** A fixation with sex, homosexuality, fornication, and adultery. People who are obsessed with anything, and especially sex, are far less likely to be informed about the law or vigilant about holding their government accountable.
4. **Sports and television.** People who are hooked on Monday night football or the latest host soap or sitcom aren't likely to be caught visiting the law library or reading the Bible as God says they should.
5. **Materialism.** This manifests itself in an obsession to acquire and keep "things".
6. **Sin.** In the past, the government outlawed gambling and lotteries. Now most states have actually institutionalized this kind of sin. The government holds lotteries and even advertises them. Indian reservations have become havens for legalized gambling.

Have you ever visited a doctor's office for minor surgery? What the doctor does is administer a local anesthetic to numb your senses in the area he will be cutting and operating on so you won't experience pain or feel what he is doing. The government does the same thing. Before they hook you up to "The Matrix" using their umbilical called the "income tax" to painfully suck you dry, they use a "local anesthetic" that numbs your senses and your discretion. This "local anesthetic" is the sin and hedonism and idolatry they try to get you addicted to and distracted with that they use to make you into a slave:

*"Most assuredly, I say to you, whoever commits sin is a slave of sin."*  
[Jesus in John 8:34, Bible, NKJV]

Once you are a slave to your sin, you are far less likely to give them any trouble about being a host organism for the federal parasite that sucks your life and your labor and your property dry. They supplement this local anesthetic called "sin" with a combination of cognitive dissonance, lies and propaganda, ignorance generated by the public fool (school) system, and an occasional media report about how they trashed a famous person to keep you in fear and immobilized to oppose their organized extortion and racketeering. This trains you never to trust or respect your own judgment well enough to even conceive of questioning authority or challenging their jurisdiction.

"Surely oppression destroys a wise man's reason.  
And a [compelled] bribe [called income tax] debases the heart."  
[Ecclesiastes 7:7, Bible, NKJV]

The concept of government as a religion especially applies to the field of taxation. The Internal Revenue Code is 9,500 pages of very fine print. We know because we have a personal copy and read it often. Our own Former Treasury Secretary Paul O'Neill calls it, and I quote:

"9,500 pages of gibberish."

[See this quote in a news article at: <http://famguardian.org/TaxFreedom/Evidence/OrgAndDuties/IRSExhibit-PaulONeill-IRSCo9500PgsOfGibberish.pdf>]

How many people have taken the time to read the Internal Revenue Code in its entirety, and even among those very few people who have read it completely, how many believe that they fully and completely understand it well enough to swear under penalty of perjury that facts they reveal and statements they might make about their own personal tax liability would be completely consistent with it? If you don't meet these two criteria of having read it completely and often and having a full and accurate understanding about it that is truthful and consistent with its legislative intent, then any statement you make on a tax return that is based on your state of mind in that instance becomes simply a matter of usually misinformed or ignorant "belief". There's a good word for this condition of believing something without knowing all the facts. It is called "faith" and it is the foundation of all religions in the world!:

"Now faith is the substance of things hoped for, the evidence of things not seen."  
[Heb. 11:1, Bible, NKJV]

Isn't "faith" based on a "belief" in something which you have not seen sufficient scientific evidence to prove? If you are like most Americans who have never read or even seen any part of the Internal Revenue Code, which is the only admissible "evidence" of your legal tax obligation, then any action you might take and any statement you might make regarding your tax "liability" under such circumstances could be rationally described only as an act of "faith" and "belief". Here's the legal definition of "faith":

**"Faith.** Confidence; credit; reliance. Thus, an act may be said to be done 'on the faith' of certain representations.

**"Belief; credence; trust.** Thus, the Constitution provides that 'full faith and credit' shall be given to the judgments of each state in the courts of the others.

Purpose; intent; sincerity; state of knowledge or design. This is the meaning of the word in the phrase "good faith" and "bad faith". See Good faith."  
[Black's Law Dictionary, Sixth Edition, p. 599]

Even when you hire an expensive professional to prepare your tax return, you still have all of the responsibility and liability for the content and the accuracy of the return and if the IRS institutes a penalty for errors or omissions, isn't it you rather than your tax preparer who has to pay the penalty? What exactly are you "trusting" (see the definition of "faith" above) when you sign a tax return and state under penalty of perjury that it is truthful without even reading or knowing or understanding the tax code? What you are in fact "trusting" is "man" or your "government". You are trusting what the IRS told you in its publications, right? Or you're trusting an ignorant and greedy and unethical tax lawyer or a misinformed accountant to tell you what your legal responsibilities are, aren't you? That is called trusting "man" because a man wrote those publications or gave you the advice that you formed your "belief" from. The Bible says we shouldn't trust men or a "worthless" government, and instead ought to trust only Him:

"Cursed be he that confirmeth not all the words of this law [God's Law, not Caesar's law] to do them. And all the people shall say, Amen."  
[Deu 27:26, Bible, NKJV]

"Behold, the nations are as a drop in the bucket, and are counted as the small dust on the scales."  
[Isaiah 40:15, Bible, NKJV]

"All nations before Him are as nothing, and they are counted by Him less than nothing and worthless."  
[Isaiah 40:17, Bible, NKJV]



1 *"Cursed is the one who trusts in man [or by implication man-made government], who depends on flesh for his*  
2 *strength and whose heart turns away from the Lord. He will be like a bush in the wastelands; he will not see*  
3 *prosperity when it comes. He will dwell in the parched places of the desert, in a salt land where no one lives.*  
4 *But blessed is the man who trusts in the Lord, whose confidence is in Him. He will be like a tree planted by the*  
5 *water that sends out its roots by the stream. It does not fear when heat comes; its leaves are always green. It has*  
6 *no worries in a year of drought and never fails to bear fruit."*  
7 *[Jeremiah 17:5-8, Bible, NIV]*

8 Now if our government had stuck to its original charter to be "a society of laws and not men", then we wouldn't be forced to  
9 have to depend on "men" to know what our tax responsibilities are because we would be able to read the law ourselves  
10 without consulting an "expert" and KNOW what we are supposed to do:

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

15 If our government had remained honorable and honest, the laws would be simple and clear and short. Read the earlier tax  
16 laws: they are very short and easy to understand. These laws were KNOWABLE by the common man. The easiest way to  
17 make the law respectable is to make it short and simple enough so that every person can read and understand it. When it  
18 grows too large and/or too complicated to be knowable by every citizen, then at that point, we have transformed our society  
19 from a society of laws to a society of men, which is the root and the foundation of tyranny and the very reason we rebelled  
20 against English monarchs to form this country! That kind of corruption of our laws began starting in around 1913, shortly  
21 after the Federal Reserve Act and the Sixteenth Amendment were passed. At that point, our government became a gigantic  
22 parasite completely unrestrained by the Constitutional limits that had kept it under control. It became a socialist bureaucracy  
23 bent on destroying our liberties and making itself into a false god.

24 The IRS Publications are the only thing that most Americans have ever read that even comes close to claiming to represent  
25 what is in the real tax code found in the Internal Revenue Code. Because most people can't afford a high-priced lawyer or  
26 accountant who understands the tax code completely, and don't have the time to read the entire IRC or buy and read a  
27 comprehensive and complete book on taxes, then Americans in effect are economically coerced into relying on and having a  
28 "religious faith" in the IRS Publications as their only source to understand what the tax code requires. Add to that the legal  
29 ignorance perpetuated in them by our government schools and you have additional government duress. Worst yet, the federal  
30 courts have said that none of these IRS Publications are credible and that they "confer no rights". Read the article on our  
31 website about this scam because it will blow your mind!:

32 <http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>

33 Even the IRS says you can't rely on their own publications in their Internal Revenue Manual:

34 *"IRS Publications, issued by the National Office, explain the law in plain language for taxpayers and their*  
35 *advisors... While a good source of general information, publications should not be cited to sustain a position."*  
36 *[Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8 (05-14-1999)]*

37 So once again, if you haven't personally read the entire Internal Revenue Code, don't understand it completely, or have  
38 trusted the IRS Publications, then your "faith" is ill-founded and in effect becomes "bad faith" because you are relying on a  
39 completely unaccountable, criminal, and lawless organization called the IRS to define and fulfill your purported legal  
40 responsibilities, and that can only be described as despicable, morally wrong, and biblically unsound:

41 *"Bad faith. The opposite of 'good faith,' generally implying or involving actual or constructive fraud, or a*  
42 *design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation,*  
43 *not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive. Term*  
44 *'bad faith' is not simply bad judgment or negligence, but rather it implies the conscious doing of a wrong because*  
45 *of dishonest purpose or moral obliquity; it is different from the negative idea of negligence in that it contemplates*  
46 *a state of mind affirmatively operating with furtive design or ill will..."*  
47 *[Black's Law Dictionary, Sixth Edition, p. 139]*

48 You are not alone in your compelled depravity and violation of God's law because most Americans, including us, are just  
49 like you. But you have to trust "somebody" on this tax subject don't you, because if you don't file the government is going  
50 to go after you and penalize you, aren't they? So you are compelled to have "faith" in something, right? You get to choose

what that “something” is, but the result is a compelled “faith” or “trust” in “something” because of demands the government is making on you to satisfy your alleged tax responsibilities.

Now if the Constitution says in the First Amendment that “*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof*”, and yet the IRS tells you under the “color of law” that you have to in effect trust or have “religious faith” in “something” in order to satisfy their criminal extortion under the “color of law”, then isn’t the government in effect “making a law respecting the establishment of a religion”? When corrupt judges make rulings on tax issues that violate the Constitution and prejudice our sacred rights, aren’t they making law? Isn’t this kind of judicial activism called “judge-made law” and isn’t Congress’ failure to discipline such tyrant judges the equivalent of allowing them to write law that will then be used as precedent in the future? Isn’t the object of that “religious faith” and “trust” that the government compels us to have the fraudulent IRS Publications directly, and the IRS who prepares them indirectly? So in effect, if the income tax is indeed an “enforced” or “compelled” tax, then the government has established “faith in the IRS” as a religion by the operation of law. And then the federal courts of that same government have turned around and said that even though the only basis for most people’s beliefs is the IRS Publications, they aren’t trustworthy nor credible, and in fact, you can be penalized for relying on what the IRS told you in them! So you are in effect being compelled to trust or have “religious faith” in a lie, aren’t you? But then out of the other side of that same hypocritical and criminal government’s mouth, the U.S. supreme Court says:

*“Courts, no more than the Constitutions, can intrude into the consciences of men or compel them to believe contrary to their faith or think contrary to their convictions, but courts are competent to adjudge the acts men do under the color of a constitutional right, such as that of freedom of speech or of the press or the free exercise of religion and to determine whether the claimed right is limited by other recognized powers, equally precious to mankind. So the mind and the spirit of man remain forever free, while his actions rest subject to necessary accommodation to the competing needs of his fellows.”*

*“If all expression of religion or opinion, however, were subject to the discretion of authority, our unfettered dynamic thoughts or moral impulses might be made only colorless and sterile ideas. To give them life and force, the Constitution protects their use. No difference of view as to the importance of the freedoms of press or religion exist. They are “fundamental personal rights and liberties” *Schneider v. State*, 308 U.S. 147, 161, 60 S.Ct. 146, 150, 84 L.Ed. 155. To proscribe the dissemination of doctrines or arguments which do not transgress military or moral limits is to destroy the principal bases of democracy, --knowledge and discussion. One man, with views contrary to the rest of his compatriots, is entitled to the privilege of expressing his ideas by speech or broadside to anyone willing to listen or to read. ...*

*“Ordinances absolutely prohibiting [or penalizing] the exercise of the right to disseminate information are, a fortiori, invalid.”*  
[*Jones v. City of Opelika*, 316 U.S. 584, 62 S.Ct. 1231 (1942), *Emphasis added*]

And when we raise the issue in court that the payment of federal income taxes violates our religious beliefs as documented here, then the courts frequently say that our arguments are “frivolous”. See *U.S. v. Lee*, 455 U.S. 252 (1982) for further confirmation of how the government essentially labels our religious beliefs as being frivolous in the process of enforcing their “love for your money” in the courts. That too is a government action to create a religion, because all of the arguments here are based on the law and words right out of the mouths of the government’s own judges and lawyers. Indirectly, they are saying that their own words are frivolous! That’s religion and idolatry, and the object of worship is the almighty dollar. The result of them calling our claims “frivolous” is a maximization of federal revenues and personal retirement benefits of federal judges through illegal and unconstitutional extortion. That too violates Christian beliefs, which say that “covetousness” is idolatry, which is the religious worship of idols:

*“Therefore put to death your members which are on the earth: fornication, uncleanness, passion, evil desire, and covetousness, which is idolatry.”*  
[*Colossians 3:5, Bible, NKJV*]

*“Behold, to obey [God and His Law] is better than sacrifice, and to heed than the fat of rams. **For rebellion is as the sin of witchcraft, and stubbornness is an iniquity and idolatry. Because you have rejected the word of the Lord, He also has rejected you from being king [or sovereign over government].**”*  
[*1 Sam. 15:22-28, Bible, NKJV*]

The implication of the above scripture is that when public servants in the government violate God’s law, they cease to be part of the government and are acting as private individuals absent the authority of law. They are no longer the sovereigns who

are serving the public they are there to protect. Instead they are serving themselves mainly and thereby violating the fiduciary relationship they have as part of the public trust and federal corporation known as the "United States government". Christians are supposed to disobey such unlawful and immoral actions, including those of courts.

*"We ought to obey God rather than men."  
[Acts 5:27-29, Bible, NKJV]*

So we have a paradox, folks. Either Subtitle A income taxes are *mandatory* and *enforced* and "religious faith in the IRS" has become the new religion, or the taxes are instead entirely "voluntary" donations and therefore do not conflict with religious views or the First Amendment. We can't have it both ways, but the government's fraudulent way of calling them *mandatory* conflicts with so many aspects of our Constitution that we may as well throw the whole Bill of Rights in the toilet and tell everyone the truth: which is that all their freedoms are suspended to pay for the extravagant debts of an out-of-control government and everyone is an economic slave and a serf to the government.

In our time, government has not only become a religion, it has also become an anti-religion intent on driving Christianity out of public life so that its only competitor (God) can be eliminated and it can continue to grow in power without resistance and graduate to that of a totalitarian communist state. Christianity, it turns out, is the only competitor to government at the moment for the worship of the people, and the one thing that most minority groups focused on rights (homosexuals, women's liberation, abortion, etc) have in common is a hate for Christianity, because Christianity is the only check on their corruption and hedonism. Christianity is the salt, the preservative, and the immune system for our society, and when you want to overtake society with sin and disease and death, the first thing you have to attack is its immune system.

The kind of idolatrous thinking that accepts the income tax as legal therefore leads to socialism ultimately, and turns the government into a tyrannical police state that robs citizens of their assets and puts them to use for the alleged "common good." It is a product of mobocracy masquerading as democracy, where less privileged or poorer groups use their voting power to compel the government to plunder the assets of wealthier people for their personal benefit. This is the central approach the demagogues (I mean democrats) use: buy votes with money extorted from hard-working citizens. The Supreme Court agreed precisely with these conclusions below in the case of *Loan Association v. Topeka*, 20 Wall. 655 (1874):

*"To lay with one hand the power of government on the property of the citizen, and with the other to bestow it on favored individuals.. is none the less robbery because it is done under the forms of law and is called taxation. This is not legislation. It is a decree under legislative forms."*

The only way a socialist state can justify its existence is to assert that the government knows better how to take care of you than you do, and past experience, especially with the Soviet Union, proves that approach ***doesn't work!*** Forcing you to have "faith" in the government is a violation of the First Amendment by establishing government as a "religion". Worship of government as a religion is the essence of socialism. Socialism has never worked throughout all of history, because the corruption of men at the highest levels who are in charge of the public funds always leads to usury, abuse, evil, and tyrannical oppression of the people they are supposed to serve.

*"Remember the word that I said to you , 'A servant is not greater than his master.' If they persecuted Me, they will also persecute you. If they kept My word, they will keep yours also. But all these things they will do to you for My name's sake, because they do not know Him who sent Me."  
[Jesus speaking in the Bible, John 15:20-21]*

Our own country was formed by Christian patriots more than 200 years ago because they rejected this very thing happening to us! They founded the first country whose legal system was based entirely on Natural Law and Natural Order.

Socialism also makes us into unwitting slaves of the government. Would anyone argue that we don't already have a police state, where the Gestapo are the tyrants at the IRS, and fear of the IRS is what keeps us paying our "tribute to the king" in the form of income taxes? Would anyone argue that we are not a country full of cowards when it comes to facing our oppressors? Realistically speaking: How long can cowards remain free and sovereign? Remember that the original American colonies waged an entire violent war of independence and risked everything they had to fight against Britain when their taxes to Britain were only 7%? Now some of us are paying 50% of our income in taxes without even flinching or whimpering or fighting. We're a bunch of wimps if you ask me!

The point is that it's much more difficult to put God first with federal income taxes because out of the remaining 50% of our income left after we pay taxes, we have to feed our families and pay our bills. Is it any wonder then that less than 1% of Christians tithe 10% of their income to the church as the Bible requires in Malachi 3:8-10? They can't afford to because they

are being taxed/raped and financially enslaved by the government illegally! And then the IRS compels churches to shut up about this kind of abuse by taking away their 501(c)(3) tax-exempt status if they speak up!

Now some of you, in fear, might say that we need to obey the government and not make any noise. When should a Christian disobey the civil government? (Rom. 13:7; Acts 5:27-29) When a civil government refuses people the liberty to worship and obey God freely or violates God's law, it has lost its mandate of authority from God. Then the Christian should feel justified and maybe even compelled in disobeying. How are we to worship God freely? With the first fruits of our labor and our income!

Ben Franklin, who incidentally was one of the attendees at the Constitutional Convention, believed that when a government began to be tyrannical, it was the right and even the DUTY of the citizens to rebel against that government. Here is what he said:

*"Resistance to tyrants is obedience to God."*

The Christian, however, is called to bear with his government whenever possible, but there must be a limit to that forbearance.

*"Those who stand for nothing will fall for anything."  
[Alex Hamilton]*

Jesus did not call for revolution against Rome, even though it was an oppressive conqueror of Israel. On the other hand, the apostles refused to obey a government order not to preach and teach in Jesus' name (Acts 5:27-29). On that occasion, one of Jesus' apostles said:

*"We ought to obey God rather than men."*

Whenever the civil government forbids the practice of things that God has commanded us to do, or tells us to do things He has commanded us not to do, then we are on solid ground in disobeying the government. Blind obedience to government is never right or biblically sound. However difficult or costly it may be, we all must reserve the right to say no to things that we consider oppressive or immoral or sinful. If we don't and we make government our unquestioned god, here is the future that awaits us:<sup>22</sup>

*The 23rd Psalm (A present-day Lamentation)*

*The politician is my shepherd...I am in want;  
He maketh me to lie down on park benches,  
He leadeth me beside still factories;  
He disturbeth my soul.  
Yea, thou I walk through the valley of the shadow of depression and recession,  
I anticipate no recovery, for he is with me.  
He prepareth a reduction in my salary in the presence of my enemies;  
He anointeth my small income with great losses;  
My expenses runneth over.  
Surely unemployment and poverty shall follow me all the days of my life,  
And I shall dwell in a mortgaged house forever.*

## **17 Conclusions and Summary**

This section will summarize the facts revealed in this pamphlet into a brief summary useful to present to juries in a criminal tax trial:

1. In America, the people and not the government are "sovereign".

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

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<sup>22</sup> A parody of the Bible, Psalm 23. Submitted by Pastor Wayne Teel and authored by Bob Phillips in his book *The Best of the Good Clean Jokes*.

1           “**Sovereignty** itself is, of course, not subject to law, for it is **the author and source of law**...While sovereign  
2 powers are delegated to...the government, **sovereignty itself remains with the people.**”  
3 [Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

4           “The words ‘people of the United States’ and ‘citizens,’ are synonymous terms, and mean the same thing. They  
5 both describe the political body who, according to our republican institutions, form the sovereignty, and who  
6 hold the power and conduct the government through their representatives. They are what we familiarly call the  
7 ‘sovereign people,’ and every citizen is one of this people, and a constituent member of this sovereignty. ...”  
8 [Boyd v. State of Nebraska, [143 U.S. 135](#) (1892)]

- 9   2. The essence of sovereignty is the requirement for EXPRESS rather than IMPLIED consent in all human interactions.  
10 The purpose of establishing government is to prevent you from being compelled to do anything, including consent to  
11 receive or pay for government CIVIL protection or CIVIL “benefits”.  
12   3. The purpose of establishing government is to procure “protection” of EXCLUSIVELY private property not owned or  
13 controlled by the government.  
14   3.1. Property the government can control or take away is PUBLIC property, not PRIVATE property and ownership by  
15 you is a PRIVILEGE rather than a RIGHT.  
16   3.2. Those without PRIVATE property are STATE property and chattel of the state, not free men.  
17   3.3. Ownership is legally defined as the right to exclude any and ALL others from using, controlling, or benefitting  
18 from the property. If you can’t exclude the GOVERNMENT from controlling the property or if they can take it  
19 away from you, then THEY are the REAL owner and you are state property.

20 For details on the above:

[Separation Between Public and Private Course](#), Form #12.025

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

- 21   4. In America, ALL powers possessed by the government are delegated to it by We The People.

22           *“The question is not what power the federal government ought to have, but what powers, in fact, have been given*  
23 *by the people...* The federal union is a government of delegated powers. It has only such as are expressly conferred  
24 upon it, and such as are reasonably to be implied from those granted. In this respect, we differ radically from  
25 nations where all legislative power, without restriction or limitation, is vested in a parliament or other legislative  
26 body subject to no restriction except the discretion of its members.” (Congress)  
27 [[U.S. v. William M. Butler](#), 297 U.S. 1 (1936)]

28           *“The Government of the United States is one of delegated powers alone. Its authority is defined and limited by*  
29 *the Constitution. All powers not granted to it by that instrument are reserved to the States or the people.”*  
30 [[United States v. Cruikshank](#), [92 U.S. 542](#) (1875)]

- 31   5. A government of delegated powers alone cannot possess any power that the people themselves do not INDIVIDUALLY  
32 ALSO possess.

33           *Nemo dat qui non habet. No one can give who does not possess. Jenk. Cent. 250.*

34           *Nemo plus juris ad alienum transferre potest, quam ispe habent. One cannot transfer to another a right which he*  
35 *has not. Dig. 50, 17, 54; 10 Pet. 161, 175.*

36           *Nemo potest facere per alium quod per se non potest. No one can do that by another which he cannot do by*  
37 *himself.*

38           *Qui per alium facit per seipsum facere videtur. He who does anything through another, is considered as doing it*  
39 *himself. Co. Litt. 258.*

40           *Quicquid acquiritur servo, acquiritur domino. Whatever is acquired by the servant, is acquired for the master.*  
41 *15 Bin. Ab. 327.*

42           *Quod per me non possum, nec per alium. What I cannot do in person, I cannot do by proxy [the Constitution]. 4*  
43 *Co. 24.*

44           *What a man cannot transfer, he cannot bind by articles [the Constitution].*  
45 [[Bouvier’s Maxims of Law](#), 1856]

- 46   6. The Declaration of Independence says that all just governments derive their authority from the “consent of the governed”.  
47 Another way of saying this is that only those who consent can be “governed”. That Declaration was enacted into LAW



in the first official act of the Congress on page 1 of the Statutes at Large. It is FRAUD to say that the requirement for consent is merely “public policy” rather than actual LAW.

7. The process of “consenting to be governed” and thereby delegating authority to protect you to a specific government:
  - 7.1. Is described by your voluntary choice of domicile within the jurisdiction of the government.
  - 7.2. Is called “animus manendi” in the legal field.
8. You cannot be compelled to choose a domicile or “residence” within a specific government and thereby procure the protection of that specific government. All such choices MUST be voluntary:

***“The rights of the individual are not derived from governmental agencies, either municipal, state or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people’s rights are not derived from the government, but the government’s authority comes from the people.\*946 The Constitution but states again these rights already existing, and when legislative encroachment by the nation, state, or municipality invade these original and permanent rights, it is the duty of the courts to so declare, and to afford the necessary relief. The fewer restrictions that surround the individual liberties of the citizen, except those for the preservation of the public health, safety, and morals, the more contented the people and the more successful the democracy.”***  
[City of Dallas v Mitchell, 245 S.W. 944 (1922)]

***“The citizen cannot complain [about the laws or the tax system], because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.”***  
[United States v. Cruikshank, 92 U.S. 542 (1875), emphasis added]

The reason the “citizen” voluntarily submitted himself to such a form of government is because he WOULDN’T be called a “citizen” in the first place if he hadn’t. Instead, he would be called a nonresident or a transient foreigner:

***citizen. One who, under the Constitution and laws of the United States, or of a particular state, is a member of the political community, owing allegiance and being entitled to the enjoyment of full civil rights. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. U.S. Const., 14th Amend. See Citizenship.***

***“Citizens” are members of a political community who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare and the protection of their individual as well as collective rights. Herriott v. City of Seattle, 81 Wash.2d. 48, 500 P.2d. 101, 109.***

*The term may include or apply to children of alien parents from in United States, Von Schwertner v. Piper, D.C.Md., 23 F.2d. 862, 863; U.S. v. Minoru Yasui, D.C.Or., 48 F.Supp. 40, 54; children of American citizens born outside United States, Haaland v. Attorney General of United States, D.C.Md., 42 F.Supp. 13, 22; Indians, United States v. Hester, C.C.A.Okl., 137 F.2d. 145, 147; National Banks, American Surety Co. v. Bank of California, C.C.A.Or., 133 F.2d. 160, 162; nonresident who has qualified as administratrix of estate of deceased resident, Hunt v. Noll, C.C.A.Tenn., 112 F.2d. 288, 289. However, neither the United States nor a state is a citizen for purposes of diversity jurisdiction. Jizemerjian v. Dept of Air Force, 457 F.Supp. 820. On the other hand, municipalities and other local governments are deemed to be citizens. Rieser v. District of Columbia, 563 F.2d. 462. A corporation is not a citizen for purposes of privileges and immunities clause of the Fourteenth Amendment. D.D.B. Realty Corp. v. Merrill, 232 F.Supp. 629, 637.*

*Under diversity statute [28 U.S.C. §1332], which mirrors U.S. Const. Article III’s diversity clause, a person is a “citizen of a state” if he or she is a citizen of the United States and a domiciliary of a state of the United States. Gibbons v. Udaras na Gaeltachta, D.C.N.Y., 549 F.Supp. 1094, 1116.  
[Black’s Law Dictionary, Sixth Edition, p. 244]*

For further details, see:

<p><i><b><u>Why Domicile and Becoming a “Taxpayer” Require Your Consent</u></b></i>, Form #05.002 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></p>
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9. People who consent to be “governed” and thereby “protected” are “customers” of the government “protection” program and are called:
  - 9.1. “citizens” if they were born in the country.
  - 9.2. “residents” if they were born in a different country.
  - 9.3. “inhabitants” if they are either a “citizen” or a “resident”.
  - 9.4. “taxpayers”.
  - 9.5. “individuals”
10. People who do not consent to be governed or protected are called:

- 10.1. “nonresidents”.
- 10.2. “nonresident aliens” but not “individuals”.
- 10.3. “transient foreigners”.
- 10.4. “in transitu”.
- 10.5. “sojourners”.
- 10.6. “perpetual travelers”.

- 11. No jury has the right to force you to become a “customer” of government “protection” called a “citizen”, “resident”, “inhabitant”, or “taxpayer”. Only you can make that choice because in America, the people are the sovereigns and not the government who serves them. Anyone who forces you to become a customer of government protection is:
  - 11.1. Advocating a criminal “protection racket”.
  - 11.2. Forcing you to contract with the government for “protection”.
  - 11.3. Perpetuating a corporate monopoly, because all governments are corporations.
- 12. The above facts explain why the Supreme Court has declared that “taxes” are not “debts”, and therefore do not constitute a legal liability in a classical sense. It is because YOU as the sovereign have the right to determine whether you want to be protected and how much protection you want to pay for.

*In his work on the Constitution, the late Mr. Justice Story whose praise as a jurist is in all civilized lands, speaking of the clause in the Constitution giving to Congress the power to lay and collect taxes, says of the theory which would limit the power to the object of paying the debts that, thus limited, it would be only a power to provide for the payment of debts then existing. [Footnote 4] And certainly if a narrow and limited interpretation would thus restrict the word "debts" in the Constitution, the same sort of interpretation would in like manner restrict the same word in the act. Such an interpretation needs only to be mentioned to be rejected. We refer to it only to show that a right construction must be sought through larger and less technical views. We may, then, safely decline either to limit the word "debts" to existing dues, or to extend its meaning so as to embrace all dues of whatever origin and description.*

*What, then, is its true sense? The most obvious, and, as it seems to us, the most rational answer to this question is that Congress must have had in contemplation debts originating in contract or demands carried into judgment, and only debts of this character. This is the commonest and most natural use of the word. Some strain is felt upon the understanding when an attempt is made to extend it so as to include taxes imposed by legislative authority, and there should be no such strain in the interpretation of a law like this.*

*We are the more ready to adopt this view because the greatest of English elementary writers upon law, when treating of debts in their various descriptions, gives no hint that taxes come within either, [Footnote 5] while American state courts of the highest authority have refused to treat liabilities for taxes as debts in the ordinary sense of that word, for which actions of debt may be maintained.*

*The first of these cases was that of Pierce v. City of Boston, [Footnote 6] 1842, in which the defendant attempted to set off against a demand of the plaintiff certain taxes due to the city. The statute allowed mutual debts to be set off, but the court disallowed the right to set off taxes. This case went, indeed, upon the construction of the statute of Massachusetts, and did not turn on the precise point before us, but the language of the court shows that taxes were not regarded as debts within the common understanding of the word.*

*The second case was that of Shaw v. Pickett, [Footnote 7] in which the Supreme Court of Vermont said,*

*"The assessment of taxes does not create a debt that can be enforced by suit, or upon which a promise to pay interest can be implied. It is a proceeding in invitum."*

*The next case was that of the City of Camden v. Allen, [Footnote 8] 1857. That was an action of debt brought to recover a tax by the municipality to which it was due. The language of the Supreme Court of New Jersey was still more explicit: "A tax, in its essential characteristics," said the court, "is not a debt nor in the nature of a debt. A tax is an impost levied by authority of government upon its citizens or subjects for the support of the state. It is not founded on contract or agreement. It operates in invitum. A debt is a sum of money due by certain and express agreement. It originates in and is founded upon contracts express or implied."*  
*[Lane County v. Oregon, 74 U.S. 7 Wall. 71 71 (1868)]*

- 13. YES, the government does have the right to criminalize non-payment for its services, but only among “taxpayers” serving in public offices within the U.S. government. The decision to BECOME a “taxpayer” is voluntary because they can’t compel you to serve in a public office, but after that decision has been made, compliance with the tax laws is NOT voluntary.

<i>Why Domicile and Becoming a “Taxpayer” Require Your Consent</i> , Form #05.002 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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14. The Internal Revenue Code is Constitutional so long as those who enforce it don't compel people not lawfully occupying public offices to satisfy the obligations described therein and enforce the requirement for consent at every state of collection and enforcement. This is because nothing that one consents to can be classified as an injury in a court of law:

*Consensus facit legem.*

*Consent makes the law. A contract is a law between the parties, which can acquire force only by consent.*

[Bouvier's Maxims of Law, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

*Volunt non fit injuria.*

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

*Consensus tollit errorem.*

*Consent removes or obviates a mistake. Co. Litt. 126.*

*Melius est omnia mala pati quam malo concentire.*

*It is better to suffer every wrong or ill, than to consent to it. 3 Co. Inst. 23.*

*Nemo videtur fraudare eos qui sciunt, et consentiunt.*

*One cannot complain of having been deceived when he knew the fact and gave his consent. Dig. 50, 17, 145.*

[Bouvier's Maxims of Law, 1856;

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

15. No one but you has the right to declare your civil status and thereby consent to satisfy all the civil obligations associated with that civil status. The First Amendment protects the right even of those who are not "citizens" or "residents" or "club members" to be free from compelled association, which means free from being forced to join a political group called a "state" and sponsor the activities of that group. That is why the First Amendment IS the First Amendment: Because the first thing you must do when forming any political group is to give the right to those who are not members to NOT join! In other words, they can't force you to join their "club" or to become a member of the club called a "citizen", "resident", "inhabitant", or "taxpayer". The way you associate, in fact, is to choose your civil status and to avail yourself of all the rights and privileges associated with that status, such as a "citizen", "resident", "person", "individual", etc. See:

Your Exclusive Right to Declare or Establish Your Civil Status, Form #13.008

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

## 18 Resources for further study and rebuttal

A number of additional resources are available for those who wish to further investigate the contents of the pamphlet:

1. Who Were the Pharisees and Saducees?, Form #05.047 – proves that the abuse of legal language to deceive people about their legal obligations was the sin of the Pharisees and the modern legal profession  
<http://sedm.org/Forms/FormIndex.htm>
2. Legal Deception, Propaganda, and Fraud, Form #05.014 -exposes all the techniques by which modern Pharisee lawyers deceive people into believing that they have a tax liability when in fact they DO NOT.  
<http://sedm.org/Forms/FormIndex.htm>
3. Avoiding Traps on Government Forms Course, Form #12.023 – shows how government forms deceive people into declaring a civil status and corresponding obligation that they DO NOT in fact have  
<http://sedm.org/Forms/FormIndex.htm>
4. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017 -shows how Pharisee lawyers abuse the legal ignorance of the average American and the false presumptions that generates to deceive them about what the law requires  
<http://sedm.org/Forms/FormIndex.htm>
5. SEDM Liberty University: Solid instructional materials to learn about law, liberty, government, and taxation so that you may confidently defend your legal rights in court and convincingly present your beliefs to any jury.  
<http://sedm.org/LibertyU/LibertyU.htm>
6. SEDM Memorandums of Law, Forms Page Section 1.5: Extensive legal research upon which you may soundly base a solid reliance defense. Right from the government's own mouth.  
<http://sedm.org/Forms/FormIndex.htm>

- 1 7. Sovereignty Research DVD, Form #11.101: Every piece of free information available on the SEDM Website. Use this  
2 as your reliance defense by attaching it to correspondence sent to government. Makes a good “jury entertainment  
3 package”.  
4 <http://sedm.org/Forms/FormIndex.htm>  
5 8. Socialism: The New American Civil Religion, Form #05.016: Memorandum of Law which proves that the federal  
6 courts have become churches and our government has become a false pagan god and a religious cult in violation of the  
7 First Amendment:  
8 <http://famguardian.org/Subjects/Taxes/Articles/Christian/GovReligion.htm>  
9 9. Tax Deposition Questions, Form #03.016: sound legal evidence upon which to base a reasonable belief  
10 <http://sedm.org/Forms/FormIndex.htm>

## 11 **19 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government**

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

18 Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person  
19 against whom you are attempting to unlawfully enforce federal law.

- 20 1. Admit that presumption is a violation of due process of law guaranteed by the Constitution of the United States of  
21 America.

22 *“Due process of law. Law in its regular course of administration through courts of justice. Due process of law*  
23 *in each particular case means such an exercise of the powers of the government as the settled maxims of law*  
24 *permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe*  
25 *for the class of cases to which the one in question belongs. A course of legal proceedings according to those*  
26 *rules and principles which have been established in our systems of jurisprudence for the enforcement and*  
27 *protection of private rights. To give such proceedings any validity, there must be a tribunal competent by its*  
28 *constitution—that is, by the law of the creation—to pass upon the subject-matter of the suit; and, if that involves*  
29 *merely a determination of the personal liability of the defendant, he must be brought within its jurisdiction by*  
30 *service of process within the state, or his voluntary appearance. Pennoy v. Neff, 96 U.S. 733, 24 L.Ed. 565.*  
31 *Due process of law implies the right of the person affected thereby to be present before the tribunal which*  
32 *pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard,*  
33 *by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on*  
34 *the question of right in the matter involved. If any question of fact or liability be conclusively be presumed*  
35 *[rather than proven] against him, this is not due process of law.”*  
36 *[Black’s Law Dictionary, Sixth Edition, p. 500]*

37  
38 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

39  
40 CLARIFICATION:\_\_\_\_\_

- 41 2. Admit that presumptions which prejudice the Constitutional rights of the accused are impermissible and  
42 unconstitutional.

43 *“Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process*  
44 *Clauses of the Fifth and Fourteenth Amendments. In Heiner v. Donnan, [285 U.S. 312](#) (1932) , the Court was*  
45 *faced with a constitutional challenge to a federal statute that created a conclusive presumption that gifts made*  
46 *within two years prior to the donor’s death were made in contemplation of death, thus requiring payment by his*  
47 *estate of a higher tax. In holding that this irrefutable assumption was so arbitrary and unreasonable as to deprive*  
48 *the taxpayer of his property without due process of law, the Court stated that it had “held more than once that a*  
49 *statute creating a presumption which operates to deny a fair opportunity to rebut it violates the due process clause*  
50 *of the Fourteenth Amendment.” Id., at 329. See, e. g., Schlesinger v. Wisconsin, [270 U.S. 230](#) (1926); Hooper v.*  
51 *Tax Comm’n, [284 U.S. 206](#) (1931). See also Tot v. United States, [319 U.S. 463, 468](#) -469 (1943); Leary v. United*  
52 *States, [395 U.S. 6, 29](#) -53 (1969). Cf. Turner v. United States, [396 U.S. 398, 418](#) -419 (1970).*

53 *The more recent case of Bell v. Burson, [402 U.S. 535](#) (1971), involved a Georgia statute which provided that if*  
54 *an uninsured motorist was involved in an accident and could not post security for the amount of damages claimed,*

his driver's license must be suspended without any hearing on the question of fault or responsibility. The Court held that since the State purported to be concerned with fault in suspending a driver's license, it [412 U.S. 441, 447] could not, consistent with procedural due process, conclusively presume fault from the fact that the uninsured motorist was involved in an accident, and could not, therefore, suspend his driver's license without a hearing on that crucial factor.

Likewise, in *Stanley v. Illinois*, 405 U.S. 645 (1972), the Court struck down, as violative of the Due Process Clause of the Fourteenth Amendment, Illinois' irrebuttable statutory presumption that all unmarried fathers are unqualified to raise their children. Because of that presumption, the statute required the State, upon the death of the mother, to take custody of all such illegitimate children, without providing any hearing on the father's parental fitness. It may be, the Court said, "that most unmarried fathers are unsuitable and neglectful parents. . . . But all unmarried fathers are not in this category; some are wholly suited to have custody of their children." *Id.*, at 654. Hence, the Court held that the State could not conclusively presume that any individual unmarried father was unfit to raise his children; rather, it was required by the Due Process Clause to provide a hearing on that issue. According to the Court, Illinois "insists on presuming rather than proving Stanley's unfitness solely because it is more convenient to presume than to prove. Under the Due Process Clause that advantage is insufficient to justify refusing a father a hearing . . . ." *Id.*, at 658. 4. [412 U.S. 441, 448] "[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]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

3. Admit that statutory presumptions used against a party to the Constitution domiciled within a state of the Union also amount to a violation of due process:

"It is apparent,' this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions.'"  
[Heiner v. Donnan, 285 U.S. 312 (1932)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

4. Admit that "presumption" is a sin under the Bible as revealed below:

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

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

5. Admit that the IRS Presumption Rules found

6. Admit that the only basis for reasonable belief about tax liability, for a person protected by the Constitution, is admissible evidence that does not require any kind of unconstitutional "presumption".

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

7. Admit that 1 U.S.C. §204 and the legislative notes thereunder shows that the Internal Revenue Code is not "positive law", but instead is "prima facie evidence" of law.

TITLE 1 > CHAPTER 3 > § 204



1                   § 204. Codes and Supplements as evidence of the laws of United States and District of Columbia; citation of  
2                   Codes and Supplements

3                   In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia,  
4                   and of each State, Territory, or insular possession of the United States—

5                   (a) United States Code.— The matter set forth in the edition of the Code of Laws of the United States current at  
6                   any time shall, together with the then current supplement, if any, establish prima facie the laws of the United  
7                   States, general and permanent in their nature, in force on the day preceding the commencement of the session  
8                   following the last session the legislation of which is included: Provided, however, **That whenever titles of such**  
9                   **Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein**  
10                  **contained, in all the courts of the United States, the several States, and the Territories and insular possessions**  
11                  **of the United States.**

12  
13                  YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

14  
15                  CLARIFICATION:\_\_\_\_\_

- 16                  8. Admit that “prima facie” means “presumed” to be law without the requirement for actual evidence supporting the fact  
17                  that it, or any portion of it, has been enacted into “law”.

18                         *“Prima facie. Lat. At first sight; on the first appearance; on the face of it; so far as can be judged from the first*  
19                         *disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary. State ex*  
20                         *rel. Herbert v. Whims, 68 Ohio App. 39, 28 N.E.2d. 596, 599, 22 O.O. 110. See also Presumption”*  
21                         *[Black’s Law Dictionary, Sixth Edition, p. 1189]*

22  
23                  YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

24  
25                  CLARIFICATION:\_\_\_\_\_

- 26                  9. Admit that because the [Internal Revenue Code](#) is not “positive law” but only “presumed” to be law, then all regulations  
27                  written to implement it have the same status.

28  
29                  YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

30  
31                  CLARIFICATION:\_\_\_\_\_

- 32                  10. Admit that the I.R.C., absent proof that the specific statute being cited is enacted into positive law, may not be cited as  
33                  evidence in any tax trial in which the accused is protected by the Constitution and the Bill of Rights without violating  
34                  due process of law and the Constitutional rights of the accused.

35  
36                  YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

37  
38                  CLARIFICATION:\_\_\_\_\_

- 39                  11. Admit that in the case of titles of the U.S. Code that are not positive law, the Statutes at Large, and not the title itself,  
40                  govern.

41                         NOTE: Of the 50 titles, only 23 have been enacted into positive (statutory) law. These titles are 1, 3, 4, 5, 9, 10,  
42                         11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 44, 46, and 49. When a title of the Code was enacted into  
43                         positive law, the text of the title became legal evidence of the law. Titles that have not been enacted into positive  
44                         law are only prima facie evidence of the law. **In that case, the Statutes at Large still govern.**  
45                         [SOURCE: U.S. Government Printing Office Access, About the U.S. Code,  
46                         <http://www.gpoaccess.gov/uscode/about.html>]

47  
48                  YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

49  
50                  CLARIFICATION:\_\_\_\_\_

- 51                  12. Admit that consent makes the law, and therefore consent of both parties to a “proposal” causes that proposal to turn  
52                  even presumptions into “law” and “evidence”:

1                   *Consensus facit legem.*  
2                   *Consent makes the law. A contract is a law between the parties, which can acquire force only by consent.*  
3                   *[Bouvier's Maxims of Law, 1856;*  
4                   *SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviereMaxims.htm>]*

5  
6 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

7  
8 CLARIFICATION:\_\_\_\_\_

- 9 13. Admit that absent express consent of the accused under the civil law, a statute not enacted into law does not become  
10 "evidence" or "law" for that may be cited against that person.

11  
12 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

13  
14 CLARIFICATION:\_\_\_\_\_

- 15 14. Admit that the Declaration of Independence states that rights protected by the Constitution are "unalienable" in relation  
16 to the government.

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

21  
22 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

23  
24 CLARIFICATION:\_\_\_\_\_

- 25 15. Admit that an "unalienable" right is one that cannot be bargained away, sold, or transferred by any mechanism,  
26 including a franchise agreement or a "public office", which is also a franchise.

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

29  
30 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

31  
32 CLARIFICATION:\_\_\_\_\_

- 33 16. Admit that when the government is hiring "employees" occupying a "public office", it comes down to the same level  
34 as an ordinary private corporation in equity, waives sovereign immunity, and cannot be acting as a government if the  
35 hiring process involves the surrender of rights protected by the United States Constitution of those it is contracting  
36 with.

37                   *Moreover, if the dissent were correct that the sovereign acts doctrine permits the Government to abrogate its*  
38 *contractual commitments in "regulatory" cases even where it simply sought to avoid contracts it had come to*  
39 *regret, then the Government's sovereign contracting power would be of very little use in this broad sphere of*  
40 *public activity. We rejected a virtually identical argument in Perry v. United States, 294 U.S. 330 (1935), in which*  
41 *Congress had passed a resolution regulating the payment of obligations in gold. **We held that the law could not***  
42 ***be applied to the Government's own obligations, noting that "the right to make binding obligations is a***  
43 ***competence attaching to sovereignty."** Id. at 353.*

44                   *See also Clearfield Trust Co. v. United States, 318 U.S. 363, 369 (1943) ("**The United States does business on***  
45 ***business terms**"") (quoting United States v. National Exchange Bank of Baltimore, 270 U.S. 527, 534 (1926));*  
46 *Perry v. United States, supra at 352 (1935) ("**When the United States, with constitutional authority, makes***  
47 ***contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such***  
48 ***instruments. There is no difference . . . except that the United States cannot be sued without its consent**")*  
49 *(citation omitted); United States v. Bostwick, 94 U.S. 53, 66 (1877) ("**The United States, when they contract with***  
50 ***their citizens, are controlled by the same laws that govern the citizen in that behalf**";) Cooke v. United States,*  
51 *91 U.S. 389, 398 (1875) (explaining that when the United States "comes down from its position of sovereignty,*  
52 ***and enters the domain of commerce, it submits itself to the same laws that govern individuals there**".)*

53                   *See Jones, 1 Cl.Ct. at 85 ("Wherever the public and private acts of the government seem to commingle, a citizen*  
54 ***or corporate body must by supposition be substituted in its place, and then the question be determined whether***

1 *the action will lie against the supposed defendant"); O'Neill v. United States, 231 Ct.Cl. 823, 826 (1982)*  
2 *(sovereign acts doctrine applies where, "[w]here [the] contracts exclusively between private parties, the party hurt*  
3 *by such governing action could not claim compensation from the other party for the governing action"). The*  
4 *dissent ignores these statements (including the statement from Jones, from which case Horowitz drew its*  
5 *reasoning literally verbatim), when it says, post at 931, that the sovereign acts cases do not emphasize the need*  
6 *to treat the government-as-contractor the same as a private party.*

7 *[United States v. Winstar Corp. 518 U.S. 839 (1996)]*

8  
9 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

10  
11 CLARIFICATION:\_\_\_\_\_

- 12 17. Admit that a government of delegated powers such as the United States can possess no power, including sovereign  
13 immunity and the requirement for consent to be sued, not possessed by the People themselves as private individuals  
14 from whom that power was delegated:

15 *Nemo dat qui non habet. No one can give who does not possess. Jenk. Cent. 250.*

16 *Nemo plus juris ad alienum transferre potest, quam ispe habent. One cannot transfer to another a right which he*  
17 *has not. Dig. 50, 17, 54; 10 Pet. 161, 175.*

18 *Nemo potest facere per alium quod per se non potest. No one can do that by another which he cannot do by*  
19 *himself.*

20 *Qui per alium facit per seipsum facere videtur. He who does anything through another, is considered as doing it*  
21 *himself. Co. Litt. 258.*

22 *Quicquid acquiritur servo, acquiritur domino. Whatever is acquired by the servant, is acquired for the master.*  
23 *15 Bin. Ab. 327.*

24 *Quod per me non possum, nec per alium. What I cannot do in person, I cannot do by proxy [the Constitution]. 4*  
25 *Co. 24.*

26 *What a man cannot transfer, he cannot bind by articles [the Constitution].*

27 *[Bouvier's Maxims of Law, 1856]*

28  
29 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

30  
31 CLARIFICATION:\_\_\_\_\_

- 32 18. Admit that no entity that calls itself a "government" can lawfully use its power to contract with private citizens to  
33 destroy rights protected by the Constitution, the protection of which was the purpose for its creation, without at least  
34 devolving down to the same level in equity as those same individuals from whom it derives all its delegated powers.

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

39  
40 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

41  
42 CLARIFICATION:\_\_\_\_\_

- 43 19. Admit that the current Internal Revenue Code is based on the Statutes at Large passed after January 2, 1939, and that  
44 all prior revenue statutes in the Statutes at Large were Repealed by the Internal Revenue Code of 1939, 53 Stat. 1.

45  
46 See: SEDM Exhibit #05.027, 53 Stat. 1, Section 4 available at <http://sedm.org/Exhibits/ExhibitIndex.htm>

47  
48 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

20. Admit that there is no place that an American Citizen can go on the Internet to read any part of the Statutes at Large on any government website for the period 1875 to about three years ago.

- Library of Congress, Statutes at Large, <http://memory.loc.gov/ammem/amlaw/lwslink.html>
- GPO Access Website, Statutes at Large: <http://www.gpoaccess.gov/statutes/index.html>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

21. Admit that absent a place on the Internet to go to read the Statutes at Large, the main other source of government information of this kind is a Federal Depository Library.

See: U.S. Government Printing Office (GPO) Website, <http://www.gpoaccess.gov/fdlp.html>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

22. Admit that it would be inconvenient for the average American, and especially those in rural areas, to visit a Federal Depository Library.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

23. Admit that without a convenient place to read the only REAL law on the subject of taxation, the average American is deprived of the required "reasonable notice" of the statutes that he is expected and required to obey if he is a "taxpayer" under the I.R.C.

*"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) . Without proper prior notice to those who may be affected by a government decision, all other procedural rights may be nullified. The exact contents of the notice required by due process will, of course, vary with the circumstances.*  
[Administrative Law and Process in a Nutshell, Ernest Gellhorn, 1990, West Publishing, p. 214]

See also: Requirement for Reasonable Notice, Form #05.022, available at <http://sedm.org/Forms/FormIndex.htm>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

24. Admit that under [Federal Rule of Civil Procedure Rule 17\(b\)](#), the law of the individual's domicile determines the rules of decision and the choice of law in civil tax matters.

IV. PARTIES > Rule 17.  
Rule 17. Parties Plaintiff and Defendant; Capacity

*(b) Capacity to Sue or be Sued.*

**Capacity to sue or be sued is determined as follows:**

- (1) for an individual who is not acting in a representative capacity, by the law of the individual's domicile;*
- (2) for a corporation, by the law under which it was organized [laws of the District of Columbia]; and*
- (3) for all other parties, by the law of the state where the court is located, except that:*

(A) a partnership or other unincorporated association with no such capacity under that state's law may sue or be sued in its common name to enforce a substantive right existing under the United States Constitution or laws; and  
(B) 28 U.S.C. §§ 754 and 959(a) govern the capacity of a receiver appointed by a United States court to sue or be sued in a United States court.  
[SOURCE: <http://www.law.cornell.edu/rules/frcp/Rule17.htm>]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

25. Admit that Constitutional protections, including those prohibiting presumptions, do not apply to federal “employees” or “public officers” on official duty

*“The restrictions that the Constitution places upon the government in its capacity as lawmaker, i.e., as the regulator of private conduct, are not the same as the restrictions that it places upon the government in its capacity as employer. We have recognized this in many contexts, with respect to many different constitutional guarantees. Private citizens perhaps cannot be prevented from wearing long hair, but policemen can. Kelley v. Johnson, 425 U.S. 238, 247 (1976). Private citizens cannot have their property searched without probable cause, but in many circumstances government employees can. O'Connor v. Ortega, 480 U.S. 709, 723 (1987) (plurality opinion); id., at 732 (SCALIA, J., concurring in judgment). Private citizens cannot be punished for refusing to provide the government information that may incriminate them, but government employees can be dismissed when the incriminating information that they refuse to provide relates to the performance of their job. Gardner v. Broderick, [497 U.S. 62, 95] 392 U.S. 273, 277 -278 (1968). With regard to freedom of speech in particular: Private citizens cannot be punished for speech of merely private concern, but government employees can be fired for that reason. Connick v. Myers, 461 U.S. 138, 147 (1983). Private citizens cannot be punished for partisan political activity, but federal and state employees can be dismissed and otherwise punished for that reason. Public Workers v. Mitchell, 330 U.S. 75, 101 (1947); Civil Service Comm'n v. Letter Carriers, 413 U.S. 548, 556 (1973); Broadrick v. Oklahoma, 413 U.S. 601, 616 -617 (1973).”*  
[Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

26. Admit that based on the answer to the previous question, a person who is regarded by the court as a federal “employee” or “public officer” in the context of a specific financial transaction is “presumed” to have forfeited his/her Constitutional rights, for the most part, as a condition of his/her employment contract/agreement.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

27. Admit that a federal “employee” is exercising “agency” on behalf of the federal government when operating within the confines of his lawfully delegated authority.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

28. Admit that pursuant to 4 U.S.C. §72, all those exercising a “public office” as “employees” within the federal government pursuant to 5 U.S.C. §2105 are presumed to have a legal “domicile” in the District of Columbia.

TITLE 4 > CHAPTER 3 > § 72  
§ 72. Public offices; at seat of Government

*All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.*  
[<https://www.law.cornell.edu/uscode/text/4/72>]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny



CLARIFICATION:\_\_\_\_\_

29. Admit that those acting as federal “employees” or “public officers” on official duty, even if otherwise domiciled within a state of the Union, must be regarded under [Federal Rule of Civil Procedure Rule 17\(b\)](#) as having a legal “domicile” in the District of Columbia.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

30. Admit that a person engaged in a “trade or business” holds a “public office” in the United States and qualifies as a federal “employee” as defined in 5 U.S.C. §2105, 26 U.S.C. §3401(c ), and 26 C.F.R. §31.3401(c)-1.

[26 U.S.C. §7701](#): Definitions

“(a)(26) The term ‘trade or business’ [includes](#) the performance of the functions of a [public office](#).”

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

31. Admit that it is a violation of due process during any judicial proceeding to “presume” that a person is a federal “employee”, “public officer”, or “taxpayer” without proof appearing on the record of same, in cases where such presumption is challenged by either party.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

32. Admit that the federal courts have ruled that persons can actually be penalized for relying on any IRS publication, statement or form as a basis for belief about tax liability.

See section 6 earlier.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

33. Admit that even when advised by a tax professional, a “taxpayer” filing a return still accepts full liability for the accuracy of what appears on the return filed.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

34. Admit that laws enacted within the Statutes at Large constitute positive law, for most but not all cases.

See [1 U.S.C. §204](#) and its predecessors.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

35. Admit that the Internal Revenue Code of 1939 was published as separate volume of the Statutes at Large, and that it is the ONLY enactment of Congress that has such distinction.

[Internal Revenue Code of 1939, Section 9, 53 Stat. 2](#)

SEC. 9. PUBLICATION.—The said Internal Revenue Code shall be published as a separate part of a volume of the United States Statutes at Large, with an appendix and index, but without marginal references; the date of enactment, bill number, public and chapter number shall be printed as a headnote.  
[Internal Revenue Code of 1939, Section 9, 53 Stat. 2  
<http://www.famguardian.org/Disks/LawDVD/Federal/RevenueActs/Revenue%20Act%20of%201939.pdf>]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

36. Admit that because the I.R.C. is not positive law, and because it was published in the Statutes at Large, then not all enactments published in the Statutes at Large are necessarily “positive law” and therefore “law” in the absence of unchallenged presumption.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

37. Admit that presumption in the legal realm operates as the equivalent of “faith” in the religious realm, in that it is the embodiment of a belief that is not substantiated by admissible evidence.

*“Now faith is the substance of things hoped for, the evidence of things not seen for examined or admitted into evidence.”*  
[[Heb. 11:1](#), Bible, NKJV]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

38. Admit that the federal government may not create a church, and especially not one which includes the payment of “tithes” called “taxes” as a requirement.

*“The “establishment of religion” clause of the First Amendment means at least this: neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one [state-sponsored political] religion, aid all religions, or prefer one religion over another. Neither can force or influence a person to go to or to remain away from church against his will, or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa.”*  
[Everson v. Bd. of Ed., 330 U.S. 1, 15 (1947)]

*“[T]he Establishment Clause is infringed when the government makes adherence to religion relevant to a person's standing in the political community. Direct government action endorsing religion or a particular religious practice is invalid under this approach, because it sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.”*  
[Wallace v. Jaffree, [472 U.S. 69](#) (1985)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

39. Admit that “taxes”, with respect to a “state” are similar to “tithes” with respect to a “church” and that membership in both a “nation” or “state” on the one hand is just as voluntary as membership in a “church” on the other hand.

Please rebut the content of the article entitled “Our government has become idolatry and a false religion.” at:

<http://famguardian.org/Subjects/Taxes/Articles/Christian/GovReligion.htm>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

40. Admit that membership in a “state” is consummated by a combination of two voluntary choices of an individual: allegiance and domicile.

Please rebut the questions at the end of the pamphlet:

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002  
<http://sedm.org/Forms/FormIndex.htm>

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

41. Admit that income “taxes” are membership dues paid only by those with a domicile and/or residence within the territorial jurisdiction of a “state” for the protection afforded by the “state”.

*“Thus, the Court has frequently held that domicile or residence, more substantial than mere presence in transit or sojourn, is an adequate basis for taxation, including income, property, and death taxes. Since the Fourteenth Amendment makes one a citizen of the state wherein he resides, the fact of residence creates universally reciprocal duties of protection by the state and of allegiance and support by the citizen. The latter obviously includes a duty to pay taxes, and their nature and measure is largely a political matter. Of course, the situs of property may tax it regardless of the citizenship, domicile, or residence of the owner, the most obvious illustration being a tax on realty laid by the state in which the realty is located.”*  
[Miller Brothers Co. v. Maryland, [347 U.S. 340](#) (1954)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

42. Admit that one may not be compelled to exercise their protected First Amendment right to politically associate with a specific state or government and are protected from “compelled association” by the First Amendment to the United States Constitution.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

43. Admit that those who have voluntarily exercised their right to politically associate with a specific state are called “citizens” and “residents” (aliens) in relation to that state, while those who have not are called “nonresidents”, “transient foreigners”, “stateless persons”, and “nonresident aliens”.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

**Affirmation:**

I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of both the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court but not necessarily lower federal courts.

Name (print):\_\_\_\_\_

1    Signature: \_\_\_\_\_

2    Date: \_\_\_\_\_

3    Witness name (print): \_\_\_\_\_

4    Witness Signature: \_\_\_\_\_

5    Witness Date: \_\_\_\_\_