

# **WHY YOUR GOVERNMENT IS EITHER A THIEF OR YOU ARE A “PUBLIC OFFICER” FOR INCOME TAX PURPOSES**

Last revised: 12/10/2020



*"In a country where the sole employer is the State...the old principle: who does not work shall not eat, has been replaced by a new one: who does not obey shall not eat."  
[Leon Trotsky]*

*"He [the King who we FIRED!] has erected a multitude of New [public] Offices, and sent hither swarms of [taxpayer public] Officers to harrass our people, and eat out their substance."  
[Declaration of Independence, 1776; SOURCE: <https://www.archives.gov/founding-docs/declaration-transcript>]*

# DEDICATION

*"You shall not make for yourself a carved image—any likeness of anything [a legal "person", which is a LIKENESS or an EFFIGY of a "human being"] that is in heaven above [your body is a temple and a church per 1 Cor. 6:19], or that is in the earth beneath, or that is in the water under the earth; you shall not bow down to them nor serve them [as PUBLIC OFFICERS]. For I, the LORD your God, am a jealous God, visiting the iniquity of the fathers upon the children to the third and fourth generations of those who hate Me, but showing mercy to thousands, to those who love Me and keep My commandments."*  
*[Exodus 20:4-6, Bible, NKJV]*

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*"You shall make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan government] gods [laws or judges]. They shall not dwell in your land [and you shall not dwell in theirs by becoming a "resident" or domiciliary in the process of contracting with them], lest they make you sin against Me [God]. For if you serve their [government] gods [under contract or agreement or franchise], it will surely be a snare to you."*  
*[Exodus 23:32-33, Bible, NKJV]*

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*"The taxpayer-- that's someone who works for the federal government but doesn't have to take the civil service examination."  
[President Ronald W. Reagan]*

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# 1 Introduction

Many Americans and even federal and state judges falsely believe that the federal income tax applies to everyone domiciled in states of the Union. They falsely believe that what they pay to the IRS every year is a Constitutional, non-apportioned direct tax upon their wages which was explicitly authorized by the Sixteenth Amendment. This short, concise Memorandum of Law will examine each of the major elements that comprise this mistaken belief and will show using admissible, non-presumptive legal evidence that these beliefs are simply false and unsupportable by any evidence. The evidence presented will be consistent with our memorandum of law below:

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

We will show that all “taxpayers” within Internal Revenue Code, Subtitle A are in fact officers, employees, or instrumentalities of the government and NOT private companies or private persons. All of these entities, in fact, are recognized within the Internal Revenue Code as the ONLY authorized audience for enforcement by the Internal Revenue Code in 26 U.S.C. §6331(a) :

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331  
§ 6331. Levy and distraint

(a) Authority of Secretary

*If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. **Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.** If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

There is nothing anywhere within the I.R.C. that can or does add to the above enforcement provisions, and the rules of statutory construction FORBID adding anything not expressly spelled out:

*“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]

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

Why is this subject important? Because:

1. The Internal Revenue Code never expressly defines all that is included within the meaning of “taxpayer”.
2. The courts themselves say you can’t trust any IRS publication or statement, anything a government employee tells you, or anything the legal or tax profession tells you and may ONLY rely on what the law actually says. No one reads the law anymore such that they would know who the real “taxpayers” are. See:

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



3. Those who think they are “taxpayers” and who in fact are not are violating the following criminal laws. Anyone who wants to obey the law ought to be concerned with wanting to learn what the law requires of them as documented in this memorandum:

3.1. Impersonating a “public officer” in criminal violation of 18 U.S.C. §912.

3.2. Bribing public officials with money the law does not authorize them to pay to the government in criminal violation of 18 U.S.C. §201.

Within this memorandum, we will confine ourselves exclusively to Subtitles A and C of the Internal Revenue Code, which addresses income and withholding taxes on “individuals”, corporations, trusts, and estates. We will not address other types of taxes, such as those lawful taxes described by Internal Revenue Code, Subtitle B (Estate taxes) or Subtitle D (Excise taxes). We will close this pamphlet with a series of admissions for readers who are still unconvinced by the content of the pamphlet. The purpose of these admissions will be to offer the reader an opportunity to refute the overwhelming evidence supporting everything in this pamphlet.

If, after reading this pamphlet, you decide that you want to terminate your “employment agreement” with the federal government under the Social Security program and destroy all evidence of the existence of it, you may do so using the following resources:

1. Demand for Verified Evidence of “Trade or Business” Activity: Information Return, Form #04.007- Present this to private employers to educate them about why they can’t file information returns, including W-2, 1042-S, 1098, and 1099 against a person who does not consent to engage in the voluntary excise taxable, privileged “trade or business” activity because they don’t want to act as a “public official” and “trustee” of the “public trust”.  
<http://sedm.org/Forms/FormIndex.htm>
2. Demand for Verified Evidence of “Trade or Business” Activity: Currency Transaction Report, Form #04.008- Present this to financial institutions when they attempt to illegally connect you with a “trade or business” in the process of withdrawing \$10,000 or more from a bank account.  
<http://sedm.org/Forms/FormIndex.htm>
3. Correcting Erroneous Information Returns, Form #04.001- Allows you to correct a false IRS Form W-2 that connects you to a “trade or business”, which is a privileged federal contractor activity that makes you LOOK like a “public official”.  
<http://sedm.org/Forms/FormIndex.htm>
4. Correcting Erroneous IRS Form 1042’s, Form #04.003- Allows you to correct a false IRS Form 1098’s that connects you to a “trade or business”, which is a privileged federal contractor activity that makes you LOOK like a “public official”.  
<http://sedm.org/Forms/FormIndex.htm>
5. Correcting Erroneous IRS Form 1098’s, Form #04.004- Allows you to correct a false IRS Form 1098’s that connects you to a “trade or business”, which is a privileged federal contractor activity that makes you LOOK like a “public officer”.  
<http://sedm.org/Forms/FormIndex.htm>
6. Correcting Erroneous IRS Form 1099’s, Form #04.005- Allows you to correct a false IRS Form 1099’s that connects you to a “trade or business”, which is a privileged federal contractor activity that makes you LOOK like a “public official”.  
<http://sedm.org/Forms/FormIndex.htm>
7. Correcting Erroneous IRS Form W-2’s, Form #04.006- Allows you to correct a false IRS Form W-2 that connects you to a “trade or business”, which is a privileged federal contractor activity that makes you LOOK like a “public official”.  
<http://sedm.org/Forms/FormIndex.htm>
8. About IRS Form W-8BEN, Form #04.202- Use this article to prepare an IRS Form W-8BEN that will allow you to open bank accounts without an SSN, stop employment withholding without an SSN and without becoming a federal “employee”. Anyone who does not provide this form is presumed to be a “U.S. person” defined in 26 U.S.C. §7701(a)(30). All statutory “U.S. persons” maintain a legal “domicile” or “residence” in the statutory “United States\*\*\*” (federal zone) under 26 U.S.C. §7701(a)(39) and 26 U.S.C. §7408(c ) and Federal Rule of Civil Procedure 17(b).  
<http://sedm.org/Forms/FormIndex.htm>
9. Affidavit of Corporate Denial, Form #02.004- Attach this to all correspondence you have with the IRS, Social Security Administration, or any other part of the federal government. Develops exculpatory evidence in your administrative record so that the agency cannot continue to ignore or violate your rights any longer.  
<http://sedm.org/Forms/FormIndex.htm>

10. Resignation of Compelled Social Security Trustee, Form #06.002- Send to the IRS and the SSA to quit the Social Security Program and get all your money back. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as “federal personnel”.  
<http://sedm.org/Forms/FormIndex.htm>
11. Sovereignty Forms and Instructions, Instructions, Step 4.20: Terminate Social Security Benefits and Your Social Security Number- Allows you to quit social security. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as “federal personnel”.  
<http://famguardian.org/TaxFreedom/Instructions/4.20TermSS.htm>
12. SSA Form 521: Withdrawal of Social Security Application- Withdraws an application to receive Social Security benefits.  
[http://sedm.org/Forms/06-AvoidingFranch/ssa\\_521.pdf](http://sedm.org/Forms/06-AvoidingFranch/ssa_521.pdf)
13. IRS Form 4029: Application for Exemption from Social Security Taxes and Waiver of Benefits- Allows you to quit social security. Those who participate in Social Security are identified in 5 U.S.C. §552a(a)(13) as “federal personnel”.  
<http://famguardian.org/TaxFreedom/Forms/IRS/IRSF4029.pdf>
14. 20 C.F.R. §416.1333- Social Security regulation authorizing leaving the Social Security system.  
<https://law.justia.com/cfr/title20/20-2.0.1.1.10.13.433.13.html>

## 2 Overview of the Income Taxation Process<sup>1</sup>

This section provides basic background on how the income tax described in Internal Revenue Code, Subtitle A functions. This will help you fit the explanation contained in this memorandum into the overall taxation process. Below is a summary of the taxation process:

1. The purpose for establishing governments is mainly to protect private property. The Declaration of Independence affirms this:

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

2. Government protects private rights by keeping “public [government] property” and “private property” separate and never allowing them to be joined together. This is the heart of the separation of powers doctrine: separation of what is private from what is public with the goal of protecting mainly what is private. See:

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

3. All property BEGINS as private property. The only way to lawfully change it to public property is through the exercise of your unalienable constitutional right to contract. All franchises qualify as a type of contract, and therefore, franchises are one of many methods to lawfully convert PRIVATE property to PUBLIC property. The exercise of the right to contract, in turn, is an act of consent that eliminates any possibility of a legal remedy of the donor against the donee:

*“Voluntati 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 consentire.*  
*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/BouviereMaxims.htm>]*

<sup>1</sup> Source: *Great IRS Hoax*, Form #11.302, Section 5.1.3; <http://sedm.org/Forms/FormIndex.htm>.



1 4. In law, all rights are “property”.

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

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

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

21 *Property, within constitutional protection, denotes group of rights inhering in citizen's relation to physical*  
22 *thing, as right to possess, use and dispose of it. Cereghino v. State By and Through State Highway*  
23 *Commission, 230 Or. 439, 370 P.2d. 694, 697.*  
24 *[Black's Law Dictionary, Fifth Edition, p. 1095]*

25 By protecting your constitutional rights, the government is protecting your PRIVATE property. Your rights are private  
26 property because they came from God, not from the government. Only what the government creates can become  
27 public property. An example is corporations, which are a public franchise that makes officers of the corporation into  
28 public officers.

29 5. The process of taxation is the process of converting “private property” into a “public use” and a “public purpose”.  
30 Below are definitions of these terms for your enlightenment.

31 *Public use. Eminent domain. The constitutional and statutory basis for taking property by eminent domain.*  
32 *For condemnation purposes, “public use” is one which confers some benefit or advantage to the public; it is*  
33 *not confined to actual use by public. It is measured in terms of right of public to use proposed facilities for*  
34 *which condemnation is sought and, as long as public has right of use, whether exercised by one or many*  
35 *members of public, a “public advantage” or “public benefit” accrues sufficient to constitute a public use.*  
36 *Montana Power Co. v. Bokma, Mont., 457 P.2d. 769, 772, 773.*

37 *Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent*  
38 *domain, means a use concerning the whole community distinguished from particular individuals. But each and*  
39 *every member of society need not be equally interested in such use, or be personally and directly affected by it;*  
40 *if the object is to satisfy a great public want or exigency, that is sufficient. Ringe Co. v. Los Angeles County, 262*  
41 *U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186. The term may be said to mean public usefulness, utility, or*  
42 *advantage, or what is productive of general benefit. It may be limited to the inhabitants of a small or restricted*  
43 *locality, but must be in common, and not for a particular individual. The use must be a needful one for the*  
44 *public, which cannot be surrendered without obvious general loss and inconvenience. A “public use” for which*  
45 *land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in*  
46 *the sciences, changing conceptions of scope and functions of government, and other differing circumstances*  
47 *brought about by an increase in population and new modes of communication and transportation. Katz v.*  
48 *Brandon, 156 Conn. 521, 245 A.2d. 579, 586.*

49 *See also Condemnation; Eminent domain.*  
50 *[Black's Law Dictionary, Sixth Edition, p. 1232]*

51  
52 *“Public purpose. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the*  
53 *objects for which, according to settled usage, the government is to provide, from those which, by the like usage,*  
54 *are left to private interest, inclination, or liberality. The constitutional requirement that the purpose of any*  
55 *tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety,*  
56 *or welfare of the entire community and not the welfare of a specific individual or class of persons [such as,*  
57 *for instance, federal benefit recipients as individuals]. “Public purpose” that will justify expenditure of public*  
58 *money generally means such an activity as will serve as benefit to community as a body and which at same time*

is directly related function of government. *Pack v. Southwestern Bell Tel. & Tel. Co.*, 215 Tenn. 503, 387 S.W.2d. 789, 794 .

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business.”

[*Black's Law Dictionary*, Sixth Edition, p. 1231, *Emphasis added*]

6. The federal government has no power of eminent domain within states of the Union. This means that they cannot lawfully convert private property to a public use or a public purpose within the exclusive jurisdiction of states of the Union:

**“The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in cases where it is delegated, and the court denies the faculty of the Federal Government to add to its powers by treaty or compact.”**

[*Dred Scott v. Sandford*, 60 U.S. 393, 508-509 (1856)]

7. The Fifth Amendment prohibits converting private property to a public use or a public purpose without just compensation if the owner does not consent, and this prohibition applies to the Federal government as well as states of the Union. It was made applicable to states of the Union by the Fourteenth Amendment in 1868.

*Fifth Amendment - Rights of Persons*

**No person shall** be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor **be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.**

[*United States Constitution*, Fifth Amendment]

If the conversion of private property to public property is done without the express consent of the party affected by the conversion and without compensation, then the following violations have occurred:

7.1. Violation of the Fifth Amendment “takings clause” above.

7.2. “Conversion” in violation of 18 U.S.C. §654.

7.3. Theft.

8. Because taxation involves converting private property to a public use, public purpose, and public office, then it involves eminent domain if the owner of the property did not expressly consent to the taking:

***Eminent domain.*** The power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character. *Housing Authority of Cherokee National of Oklahoma v. Langley*, Okl., 555 P.2d. 1025, 1028. Fifth Amendment, U.S. Constitution.

In the United States, the power of eminent domain is founded in both the federal (Fifth Amend.) and state constitutions. **However, the Constitution limits the power to taking for a public purpose and prohibits the exercise of the power of eminent domain without just compensation to the owners of the property which is taken. The process of exercising the power of eminent domain is commonly referred to as “condemnation”, or, “expropriation”.**

The right of eminent domain is the right of the state, through its regular organization, to reassert, either temporarily or permanently, its dominion over any portion of the soil of the state on account of public exigency and for the public good. Thus, in time of war or insurrection, the proper authorities may possess and hold any part of the territory of the state for the common safety; and in time of peace the legislature may authorize the appropriation of the same to public purposes, such as the opening of roads, construction of defenses, or providing channels for trade or travel. Eminent domain is the highest and most exact idea of property remaining in the government, or in the aggregate body of the people in their sovereign capacity. It gives a right to resume the possession of the property in the manner directed by the constitution and the laws of the state, whenever the public interest requires it.

1 See also Adequate compensation; Condemnation; Constructive taking; Damages; Expropriation; Fair market  
2 value; Just compensation; Larger parcel; Public use; Take.  
3 [Black's Law Dictionary, Fifth Edition, p. 470]

- 4 9. The Fifth Amendment requires that any taking of private property without the consent of the owner must involve  
5 compensation. The Constitution must be consistent with itself. The taxation clauses found in Article 1, Section 8,  
6 Clauses 1 and 3 cannot conflict with the Fifth Amendment. The Fifth Amendment contains no exception to the  
7 requirement for just compensation upon conversion of private property to a public use, even in the case of taxation.  
8 This is why all taxes must be indirect excise taxes against people who provide their consent by applying for a license to  
9 engage in the taxed activity: The application for the license constitutes constructive consent to donate the fruits of the  
10 activity to a public use, public purpose, and public office.
- 11 10. There is only ONE condition in which the conversion of private property to public property does NOT require  
12 compensation, which is when the owner donates the private property to a public use, public purpose, or public office.  
13 To wit:

14 "Men are endowed by their Creator with certain unalienable rights, -'life, liberty, and the pursuit of happiness;'  
15 and to 'secure,' not grant or create, these rights, governments are instituted. That property [or income] which a  
16 man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use  
17 it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL  
18 SECURITY, Medicare, and every other public "benefit"]; second, that if he devotes it to a public use, he  
19 gives to the public a right to control that use; and third, that whenever the public needs require, the public  
20 may take it upon payment of due compensation."  
21 [Budd v. People of State of New York, 143 U.S. 517 (1892)]

22 The above rules are summarized below:  
23

**Table 1: Rules for converting private property to a public use or a public office**

#	Description	Requires consent of owner to be taken from owner?
1	The owner of property justly acquired enjoys full and exclusive use and control over the property. This right includes <u>the right to exclude government uses</u> or ownership of said property.	Yes
2	He may not use the property to injure the equal rights of his neighbor. For instance, when you murder someone, the government can take your liberty and labor from you by putting you in jail or your life from you by instituting the death penalty against you. Both your life and your labor are “property”. Therefore, the basis for the “taking” was violation of the equal rights of a fellow sovereign “neighbor”.	No
3	He cannot be compelled or required to use it to “benefit” his neighbor. That means he cannot be compelled to donate the property to any franchise that would “benefit” his neighbor such as Social Security, Medicare, etc.	Yes
4	If he donates it to a public use, he gives the public the right to control that use.	Yes
5	Whenever the public needs require, the public may take it without his consent upon payment of due compensation. E.g. “ <u>eminent domain</u> ”.	No

11. The following two methods are the ONLY methods involving consent of the owner that may be LAWFULLY employed to convert PRIVATE property into PUBLIC property. Anything else is unlawful and THEFT:

11.1. DIRECT CONVERSION: Owner donates the property by conveying title or possession to the government.<sup>2</sup>

11.2. INDIRECT CONVERSION: Owner assumes a PUBLIC status as a PUBLIC officer in the HOLDING of title to the property.<sup>3</sup> All such statuses and the rights that attach to it are creations and property of the government, the use of which is a privilege. The status and all PUBLIC RIGHTS that attach to it conveys a “benefit” for which the status user must pay an excise tax. The tax acts as a rental or use fee for the status, which is government property.

12. You and ONLY you can authorize your private property to be donated to a public use, public purpose, and public office. No third party can lawfully convert or donate your private property to a public use, public purpose, or public office without your knowledge and express consent. If they do, they are guilty of theft and conversion, and especially if they are acting in a quasi-governmental capacity as a “withholding agent” as defined in 26 U.S.C. §7701(a)(16).

12.1. A withholding agent cannot file an information return connecting your earnings to a “trade or business” without you actually occupying a “public office” in the government BEFORE you filled out any tax form.

12.2. A withholding agent cannot file IRS Form W-2 against your earnings if you didn’t sign an IRS Form W-4 contract and thereby consent to donate your private property to a public office in the U.S. government and therefore a “public use”.

12.3. That donation process is accomplished by your own voluntary self-assessment and ONLY by that method. Before such a self-assessment, you are a “nontaxpayer” and a private person. After the assessment, you become a “taxpayer” and a public officer in the government engaged in the “trade or business” franchise.

12.4. In order to have an income tax liability, you must complete, sign, and “file” an income tax return and thereby assess yourself:

*“Our system of taxation is based upon voluntary assessment and payment, not distraint.”*  
[Flora v. U.S., 362 U.S. 145 (1960)]

By assessing yourself, you implicitly give your consent to allow the public the right to control that use of the formerly PRIVATE property donated to a public use.

<sup>2</sup> An example of direct conversion would be the process of “registering” a vehicle with the Department of Motor Vehicles in your state. The act of registration constitutes consent by original ABSOLUTE owner to change the ownership of the property from ABSOLUTE to QUALIFIED and to convey legal title to the state and qualified title to himself.

<sup>3</sup> An example of a PUBLIC status is statutory “taxpayer” (public office called “trade or business”), statutory “citizen”, statutory “driver” (vehicle), statutory voter (registered voters are public officers).

12.5. IRS Forms W-2 and W-4 are identified as Tax Class 5: Estate and Gift Taxes. Payroll withholdings are GIFTS, not “taxes” in a common law sense.

[TITLE 31](#) > [SUBTITLE I](#) > [CHAPTER 3](#) > [SUBCHAPTER II](#) > § 321  
[§ 321. General authority of the Secretary](#)

(d)

*(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.*

**(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.**

They don't become “taxes” and assessments until you attach the Form W-2 “gift statement” to an assessment called a IRS Form 1040 and create a liability with your own self-assessment signature. IRS has no delegated authority to convert a “gift” into a “tax”. That is why when you file the IRS Form 1040, you must attach the W-2 gift statement. See:

[Great IRS Hoax](#), Form #11.302, Section 5.6.7  
<http://sedm.org/Forms/FormIndex.htm>

12.6. The IRS cannot execute a lawful assessment without your knowledge and express consent because if they didn't have your consent, then it would be criminal conversion and theft. That is why every time they do an assessment, they have to call you into their office and present it to you to procure your consent in what is called an “examination”. If you make it clear that you don't consent and hand them the following, they have to delete the assessment because it's only a proposal. See:

[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>

There is no way other than the above to lawfully create an income tax liability without violating the Fifth Amendment takings clause. If you assess yourself, you consent to become a “public officer” and thereby donate the fruits of your labor as such officer to a public use and a public purpose.

13. The IRS won't admit this, but this in fact is how the de facto unlawful system currently functions:

13.1. You can't unilaterally “elect” yourself into a “public office”, even if you do consent.

13.2. No IRS form nor any provision in the Internal Revenue Code CREATES any new public offices in the government.

13.3. The I.R.C. only taxes EXISTING public offices lawfully exercised ONLY in the District of Columbia and in all places expressly authorized pursuant to 4 U.S.C. §72.

14. Information returns are being abused in effect as “federal election” forms.

14.1. Third parties in effect are nominating private persons into public offices in the government without their knowledge, without their consent, and without compensation. Thus, information returns are being used to impose the obligations of a public office upon people without compensation and thereby impose slavery in violation of the Thirteenth Amendment.

14.2. Anyone who files a false information return connecting a person to the “trade or business”/“public office” franchise who in fact does not ALREADY lawfully occupy a public office in the U.S. government is guilty of impersonating a public officer in criminal violation of 18 U.S.C. §912.

15. The IRS Form W-4 cannot and does not create an office in the U.S. government, but allows EXISTING public officers to elect to connect their private earnings to a public use, a public office, and a public purpose. The IRS abuses this form to unlawfully create public offices, and this abuse of the I.R.C. is the heart of the tax fraud: They are making a system that only applies to EXISTING public offices lawfully exercised in order to:

15.1. Unlawfully create new public offices in places where they are not authorized to exist.

15.2. Destroy the separation of powers between what is public and what is private.

15.3. Institute eminent domain over private labor using false third party reports. Omission in preventing such fraud accomplishes involuntary servitude in violation of the Thirteenth Amendment, 42 U.S.C. §1994, and 18 U.S.C. §1581.



15.4. Destroy the separation of powers between the federal and state governments. Any state employee who participates in the federal income tax is serving in TWO offices, which is a violation of most state constitutions.

15.5. Enslave innocent people to go to work for them without compensation, without recourse, and in violation of the thirteenth amendment prohibition against involuntary servitude. That prohibition, incidentally, applies EVERYWHERE, including on federal territory.

16. Government acquires control over otherwise PRIVATE property by fooling you into donating it to a PUBLIC USE and a PUBLIC OFFICE by mistakenly calling yourself a STATUTORY franchisee called a “taxpayer”, “citizen”, “resident”, and a “person” on a tax form. If you don’t want the job, stop acting like or calling yourself a volunteer. The simplest way to do that is to define terms on all forms submitted using an attachment as EXCLUDING anything in any federal statutory law and including only those protected by the constitution and the common law. Then reference the attachment on all the standard forms so it can’t be separated and becomes fraudulent when it is separated.

The above criteria explains the following:

1. Why you cannot be subject to either employment tax withholding or employment tax reporting without voluntarily signing an IRS Form W-4.

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)

[Subpart E—Collection of Income Tax at Source](#)

[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 §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. See §31.3405(c)–1, Q&A–3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

(b) Form and duration of agreement

(2) An agreement under section 3402 (p) shall be effective for such period as the employer and employee mutually agree upon. **However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other.** Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first “status determination date” (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under section 3402 (p) is based shall be attached to, and constitute a part of, such new Form W-4.

[26 C.F.R. §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

**Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term “wages” includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p).** References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)–3).

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with

respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)–1 and 31.3401(d)–1 for the definitions of “employee” and “employer”.

2. Why the courts have no authority under the Declaratory Judgments Act, 28 U.S.C. §2201(a) to declare you a franchisee called a “taxpayer”. You own yourself.

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)]

3. Why the revenue laws may not be cited or enforced against a person who is not a “taxpayer”:

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

**“Revenue Laws relate to taxpayers [officers, employees, instrumentalities, and elected officials of the Federal Government] and not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the Federal Government and who did not volunteer to participate in the federal “trade or business” franchise]. The latter are without their scope. No procedures are prescribed for non-taxpayers and no attempt is made to annul any of their Rights or Remedies in due course of law.”**  
[Economy Plumbing & Heating v. U.S., 470 F.2d. 585 (1972)]

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

All of the above requirements have in common that violating them would result in the equivalent of exercising eminent domain over the private property of the private person without their consent and without just compensation, which the U.S. Supreme Court said violates the Fifth Amendment Takings Clause:

**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.**

Coulter, J., in Northern Liberties v. St. John’s Church, 13 Pa.St. 104 says, very forcibly, ‘I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**’ See, also Pray v. Northern Liberties, 31 Pa.St. 69; Matter of Mayor of N.Y., 11 Johns., 77; Camden v. Allen, 2 Dutch., 398; Sharpless v. Mayor, supra; Hanson v. Vernon, 27 Ia., 47; Whiting v. Fond du Lac, supra.”  
[Loan Association v. Topeka, 20 Wall. 655 (1874)]

As a consequence of the above considerations, any government officer or employee who does any of the following is unlawfully converting private property to a public use without the consent of the owner and without consideration:

1. Assuming or “presuming” you are a “taxpayer” without producing evidence that you consented to become one. In our system of jurisprudence, a person must be presumed innocent until proven guilty with court admissible evidence. Presumptions are NOT evidence. That means they must be presumed to be a “nontaxpayer” until they are proven with admissible evidence to be a “taxpayer”. See:

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

2. Performing a tax assessment or re-assessment if you haven't first voluntarily assessed yourself by filing a tax return. See:

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>

3. Citing provisions of the franchise agreement against those who never consented to participate. This is an abuse of law for political purposes and an attempt to exploit the innocent and the ignorant. The legislature cannot delegate authority to the Executive Branch to convert innocent persons called "nontaxpayers" into franchisees called "taxpayers" without producing evidence of consent to become "taxpayers".

*"In Calder v. Bull, which was here in 1798, Mr. Justice Chase said, that there were acts which the Federal and State legislatures could not do without exceeding their authority, and among them he mentioned a law which punished a citizen for an innocent act; a law that destroyed or impaired the lawful private [labor] contracts [and labor compensation, e.g. earnings from employment through compelled W-4 withholding] of citizens; a law that made a man judge in his own case; and a law that took the property from A [the worker], and gave it to B [the government or another citizen, such as through social welfare programs]. 'It is against all reason and justice,' he added, 'for a people to intrust a legislature with such powers, and therefore it cannot be presumed that they have done it. They may command what is right and prohibit what is wrong; but they cannot change innocence into guilt, or punish innocence as a crime, or violate the right of an antecedent lawful private [employment] contract [by compelling W-4 withholding, for instance], or the right of private property. To maintain that a Federal or State legislature possesses such powers [of THEFT!] if they had not been expressly restrained, would, in my opinion, be a political heresy altogether inadmissible in all free republican governments.' 3 Dall. 388."*  
[Sinking Fund Cases, 99 U.S. 700 (1878)]

4. Relying on third party information returns that are unsigned as evidence supporting the conclusion that you are a "taxpayer". These forms include IRS Forms W-2, 1042-S, 1098, and 1099 and they are NOT signed and are inadmissible as evidence under Federal Rule of Evidence 802 because not signed under penalty of perjury. Furthermore, the submitters of these forms seldom have personal knowledge that you are in fact and in deed engaged in a "trade or business" as required by 26 U.S.C. §6041(a). Most people don't know, for instance, that a "trade or business" includes ONLY "the functions of a public office".

### 3 Public v. Private

A very important subject is the division of legal authority between PUBLIC and PRIVATE rights. On this subject the U.S. Supreme Court held:

*"A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he administer or execute them."*  
[United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883)]

If you can't "execute" them, then you ALSO can't enforce them against ANYONE else. Some people might be tempted to say that we all construe them against the private person daily, but in fact we can't do that WITHOUT being a public officer WITHIN the government.

*"The reason why States are 'bodies politic and corporate' is simple: just as a corporation is an entity that can act only through its agents, '[t]he State is a political corporate body, can act only through agents, and can command only by laws.' Poindexter v. Greenhow, supra, 114 U.S., at 288, 5 S.Ct. at 912-913. See also Black's Law Dictionary 159 (5th ed. 1979) ('[B]ody politic or corporate': 'A social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good'). As a 'body politic and corporate,' a State falls squarely within the Dictionary Act's definition of a 'person.'"*  
[Will v. Michigan Dept. of State Police, 491 U.S. 58, 109 S.Ct. 2304 (U.S.Mich., 1989)]

If we do enforce the law as a private nonresident human, we are criminally impersonating a public officer in violation of 18 U.S.C. §912. Other U.S. Supreme Court cites also confirm why this must be:

*"All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals."*



“...we are of the opinion that there is a clear distinction in this particular between an [PRIVATE] individual and a [PUBLIC] corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.

“Upon the other hand, the [PUBLIC] corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges.”

[Hale v. Henkel, 201 U.S. 43 (1906)]

You MUST therefore be an agent of the government and therefore a PUBLIC officer in order to “make constitutions or laws or administer, execute, or ENFORCE EITHER”. Here is more proof:

“A defendant sued as a wrong-doer, who seeks to substitute the state in his place, or to justify by the authority of the state, or to defend on the ground that the state has adopted his act and exonerated him, cannot rest on the bare assertion of his defense. He is bound to establish it. **The state is a political corporate body, can act only through agents, and can command only by laws.** It is necessary, therefore, for such a defendant, in order to complete his defense, to produce a law of the state which constitutes his commission as its agent, and a warrant for his act.”

[Poindexter v. Greenhow, 114 U.S. 270 (1885)]

By “act” above, they implicitly also include “enforce”. If you aren’t an agent of the state, they can’t enforce against you. Examples of “agents” or “public officers” of the government include all the following:

1. “person” (26 U.S.C. §7701(a)(1)).
2. “individual” (26 C.F.R. §1441-1(c)(3)).
3. “taxpayer” (26 U.S.C. §7701(a)(14)).
4. “withholding agent” (26 U.S.C. §7701(a)(16)).

“The government thus lays a tax, through the [GOVERNMENT] instrumentality [PUBLIC OFFICE] of the company [a FEDERAL and not STATE corporation], upon the income of a non-resident alien over whom it cannot justly exercise any control, nor upon whom it can justly lay any burden.”

[United States v. Erie R. Co., 106 U.S. 327 (1882)]

So how do you “OBEY” a law without “EXECUTING” it? We’ll give you a hint: It CAN’T BE DONE!

Likewise, if ONLY public officers can “administer, execute, or enforce” the law, then the following additional requirements of the law are unavoidable and also implied:

1. Congress cannot impose DUTIES against private persons through the civil law. Otherwise the Thirteenth Amendment would be violated and the party executing said duties would be criminally impersonating an agent or officer of the government in violation of 18 U.S.C. §912.
2. Congress can only impose DUTIES upon public officers through the civil statutory law.
3. The civil statutory law is law for GOVERNMENT, and not PRIVATE persons. See:

4. Those who enforce any civil statutory duties against you are PRESUMING that you occupy a public office.
5. You cannot unilaterally “elect” yourself into a public office in the government by filling out a government form, even if you consent to volunteer.
6. Even if you ARE a public officer, you can only execute the office in a place EXPRESSLY authorized by Congress per 4 U.S.C. §72, which means ONLY the District of Columbia and “not elsewhere”.

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.*

7. If you are “construing, administering, or executing” the laws, then you are doing so as a public officer and:
  - 7.1. You are bound and constrained in all your actions by the constitution like every OTHER public officer while on official business interacting with PRIVATE humans.
  - 7.2. The Public Records exception to the Hearsay Exceptions Rule, Federal Rule of Evidence 803(8) applies. EVERYTHING you produce in the process of “construing, administering, or executing” the laws is instantly admissible and cannot be excluded from the record by any judge. If a judge interferes with the admission of such evidence, he is:
    - 7.2.1. Interfering with the duties of a coordinate branch of the government in violation of the Separation of Powers.
    - 7.2.2. Criminally obstructing justice.

If you would like to study the subject of private property and its protection further after reading the following subsections, please refer to the following vast resources on the subject:

1. Private v. Public Property/Rights and Protection Playlist, SEDM Youtube Channel  
<https://www.youtube.com/playlist?list=PLin1scINPT0txYewMRT66TXYn6AUF0KTu>
2. Enumeration of Inalienable Rights, Form #10.002 – list of your PRIVATE rights and the authorities that prove that they exist
3. Separation Between Public and Private, Form #12.025  
<http://sedm.org/Forms/FormIndex.htm>
4. Legal Remedies for the Protection of Private Rights Course, Form #12.019  
<http://sedm.org/Forms/FormIndex.htm>
5. Property and Privacy Protection Topic, Family Guardian Fellowship  
<http://famguardian.org/Subjects/PropertyPrivacy/PropertyPrivacy.htm>
6. Sovereignty and Freedom Topic, Section 6: Private and Natural Rights, Family Guardian Fellowship  
<http://famguardian.org/Subjects/Freedom/Freedom.htm#RIGHTS:>

### **3.1 Introduction**

In order to fully understand and comprehend the nature of franchises, it is essential to thoroughly understand the distinctions between PUBLIC and PRIVATE property. The following subsections will deal with this important subject extensively. In the following subsections, we will establish the following facts:

1. There are TWO types of property:
  - 1.1. Public property. This type of property is protected by the CIVIL law.
  - 1.2. Private property. This type of property is protected by the COMMON law.
2. Specific legal rights attach to EACH of the two types of property. These “rights” in turn, are ALSO property as legally defined.

***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 everyone 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.

[ . . . ]

[Black's Law Dictionary, Fifth Edition, p. 1095]

3. Human beings can simultaneously be in possession of BOTH PUBLIC and PRIVATE rights. This gives rise to TWO legal "persons": PUBLIC and PRIVATE.
  - 3.1. The CIVIL law attaches to the PUBLIC person.
  - 3.2. The COMMON law and the Constitution attach to and protect the PRIVATE person.This is consistent with the following maxim of law.

*Quando duo juro concurrunt in und personâ, aequum est ac si essent in diversis.*  
When two rights [public right v. private right] concur in one person, it is the same as if they were two separate persons. 4 Co. 118.  
[Bouvier's Maxims of Law, 1856;  
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

4. That the purpose of the Constitution and the establishment of government itself is to protect EXCLUSIVELY PRIVATE rights.

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

The VERY FIRST step in protecting PRIVATE rights and PRIVATE property is to prevent such property from being converted to PUBLIC property or PUBLIC rights without the consent of the owner. In other words, the VERY FIRST step in protecting PRIVATE rights is to protect you from the GOVERNMENT'S OWN theft. Obviously, if a government becomes corrupted and refuses to protect PRIVATE rights or recognize them, there is absolutely no reason you can or should want to hire them to protect you from ANYONE ELSE.

5. The main method for protecting PRIVATE rights is to impose the following burden of proof and presumption upon any entity or person claiming to be "government":

*"All rights and property are PRESUMED to be EXCLUSIVELY PRIVATE and beyond the control of government or the CIVIL law unless and until the government meets the burden of proving, WITH EVIDENCE, on the record of the proceeding that:*

1. A SPECIFIC formerly PRIVATE owner consented IN WRITING to convert said property to PUBLIC property.
2. The owner was either abroad, domiciled on, or at least PRESENT on federal territory NOT protected by the Constitution and therefore had the legal capacity to ALIENATE a Constitutional right or relieve a public servant of the fiduciary obligation to respect and protect the right. Those physically present but not necessarily domiciled in a constitutional but not statutory state protected by the constitution cannot lawfully alienate rights to a real, de jure government, even WITH their consent.
3. If the government refuses to meet the above burden of proof, it shall be CONCLUSIVELY PRESUMED to be operating in a PRIVATE, corporate capacity on an EQUAL footing with every other private corporation and which is therefore NOT protected by official, judicial, or sovereign immunity.

6. That the ability to regulate EXCLUSIVELY PRIVATE conduct is repugnant to the constitution and therefore such conduct cannot lawfully become the subject of any civil statutory law.

*"Under basic rules of construction, statutory laws enacted by legislative bodies cannot impair rights given under a constitution. 194 B.R. at 925. "*

7. That the terms “person”, “persons”, “individual”, “individuals” as used within the civil statutory law by default imply PUBLIC “persons” and therefore public offices within the government and not PRIVATE human beings. All such offices are creations and franchises of the government and therefore property of the government subject to its exclusive control.
8. That if the government wants to call you a statutory “person” or “individual” under the civil law, then:
  - 8.1. You must volunteer or consent at some point to occupy a public office in the government while situated physically in a place not protected by the USA Constitution and the Bill of Rights....namely, federal territory. In some cases, that public office is also called a “citizen” or “resident”.
  - 8.2. If you don’t volunteer, they are essentially exercising unconstitutional “eminent domain” over your PRIVATE property. Keep in mind that rights protected by the Constitution are PRIVATE PROPERTY.
9. That there are VERY SPECIFIC and well defined rules for converting PRIVATE property into PUBLIC PROPERTY and OFFICES, and that all such rules require your express consent except when a crime is involved.
10. That if a corrupted judge or public servant imposes upon you any civil statutory status, including that of “person” or “individual” without PROVING with evidence that you consented to the status AND had the CAPACITY to lawfully consent at the time you consented, they are:
  - 10.1. Violating due process of law.
  - 10.2. Imposing involuntary servitude.
  - 10.3. STEALING property from you. We call this “theft by presumption”.
  - 10.4. Kidnapping your identity and moving it to federal territory.
  - 10.5. Instituting eminent domain over EXCLUSIVELY PRIVATE property.
11. That within the common law, the main mechanism for PREVENTING the conversion of PRIVATE property to PUBLIC property through government franchises are the following maxims of law. These maxims of law MANDATE that all governments must protect your right NOT to participate in franchises or be held accountable for the consequences of receiving a “benefit” you did not consent to receive and/or regarded as an INJURY rather than a “benefit”:

*Invito beneficium non datur.*

*No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69. But if he does not dissent he will be considered as assenting. Vide Assent.*

*Quilibet potest renunciare juri pro se inducto.*

*Any one may renounce a law introduced for his own benefit. To this rule there are some exceptions. See 1 Bouv. Inst. n. 83.*

[Bouvier’s Maxims of Law, 1856,

SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

As an example of why an understanding of this subject is EXTREMELY important, consider the following dialog at an IRS audit in which the FIRST question out of the mouth of the agent is ALWAYS “What is YOUR Social Security Number?”:

**IRS AGENT:** What is YOUR Social Security Number?

**YOU:** 20 C.F.R. §422.103(d) says SSNs belong to the government. The only way it could be MY number is if I am appearing here today as a federal employee or officer on official business. If that is the case, no, I am here as a private human being and not a government statutory “employee” in possession or use of “public property” such as a number. Therefore, I don’t HAVE a Social Security Number. Furthermore, I am not lawfully eligible and never have been eligible to participate in Social Security and any records you have to the contrary are FALSE and FRAUDULENT and should be DESTROYED.

**IRS AGENT:** That’s ridiculous. Everyone HAS a SSN.

**YOU:** Well then EVERYONE is a STUPID whore for acting as a federal employee or agent without compensation THEY and not YOU determine. The charge for my services to act as a federal “employee” or officer or trustee in possession of public property such as an SSN is ALL the tax and penalty liability that might result PLUS \$1,000 per hour. Will you agree in writing pay the compensation I demand to act essentially as your federal coworker, because if you don’t, then it’s not MY number?

1  
2 **IRS AGENT:** It's YOUR number, not the government's.

3  
4 **YOU:** Well why do the regulations at 20 C.F.R. §422.103(d) say it belongs to the Social Security Administration instead of  
5 me? I am not appearing as a Social Security employee at this meeting and its unreasonable and prejudicial for you  
6 to assume that I am. I am also not appearing here as "federal personnel" as defined in [5 U.S.C. §552a\(a\)\(13\)](#). I  
7 don't even qualify for Social Security and never have, and what you are asking me to do by providing an  
8 INVALID and knowingly FALSE number is to VIOLATE THE LAW and commit fraud by providing that which I  
9 am not legally entitled to and thereby fraudulently procure the benefits of a federal franchise. Is that your  
10 intention?

11  
12 **IRS AGENT:** Don't play word games with me. It's YOUR number.

13  
14 **YOU:** Well good. Then if it's MY number and MY property, then I have EXCLUSIVE control and use over it. That is  
15 what the word "property" implies. That means I, and not you, may penalize people for abusing MY property. The  
16 penalty for wrongful use or possession of MY property is all the tax and penalty liability that might result from  
17 using said number for tax collection plus \$1,000 per hour for educating you about your lawful duties because you  
18 obviously don't know what they are. If it's MY property, then your job is to protect me from abuses of MY  
19 property. If you can penalize me for misusing YOUR procedures and forms, which are YOUR property, then I am  
20 EQUALLY entitled to penalize you for misusing MY property. Are you willing to sign an agreement in writing to  
21 pay for the ABUSE of what you call MY property, because if you aren't, you are depriving me of exclusive use  
22 and control over MY property and depriving me of the equal right to prevent abuses of my property??

23  
24 **IRS AGENT:** OK, well it's OUR number. Sorry for deceiving you. Can you give us OUR number that WE assigned to  
25 you?

26  
27 **YOU:** You DIDN'T assign it to ME as a private person, which is what I am appearing here today as. You can't lawfully  
28 issue public property such as an SSN to a private person. That's criminal embezzlement. The only way it could  
29 have been assigned to me is if I'm acting as a "public officer" or federal employee at this moment, and I am NOT.  
30 I am here as a private person and not a public employee. Therefore, it couldn't have been lawfully issued to me.  
31 Keep this up, and I'm going to file a criminal complaint with the U.S. Attorney for embezzlement in violation of  
32 [18 U.S.C. §641](#) and impersonating a public officer in violation of [18 U.S.C. §912](#). I'm not here as a public officer  
33 and you are asking me to act like one without compensation and without legal authority. Where is the  
34 compensation that I demand to act as a fiduciary and trustee over your STINKING number, which is public  
35 property? I remind you that the very purpose why governments are created is to PROTECT and maintain the  
36 separation between "public property" and "private property" in order to preserve my inalienable constitutional  
37 rights that you took an oath to support and defend. Why do you continue to insist on co-mingling and confusing  
38 them in order to STEAL my labor, property, and money without compensation in violation of the Fifth  
39 Amendment takings clause?

40  
41  
42 Usually, after the above interchange, the IRS agent will realize he is digging a DEEP hole for himself and will abruptly end  
that sort of inquiry, and many times will also end his collection efforts.

### 43 **3.2 What is "Property"?**

44 Property is legally defined as follows:

45 *Property. That which is peculiar or proper to any person; that which **belongs exclusively to one**. In the strict*  
46 *legal sense, **an aggregate of rights which are guaranteed and protected by the government**. *Fulton Light, Heat**  
47 *& Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable*  
48 *right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to*  
49 *dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with*  
50 *it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things*  
51 *or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can*  
52 *have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which*  
53 *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]

Keep in mind the following critical facts about "property" as legally defined:

1. The essence of the "property" right, also called "ownership", is the RIGHT TO EXCLUDE others from using or benefitting from the use of the property.

"We have repeatedly held that, as to property reserved by its owner for private use, 'the right to exclude [others is] 'one of the most essential sticks in the bundle of rights that are commonly characterized as property.' " *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433 (1982), quoting *Kaiser Aetna v. United States*, 444 U.S. 164, 176 (1979). "  
[*Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987)]

"In this case, we hold that the "right to exclude," so universally held to be a fundamental element of the property right,<sup>[11]</sup> falls within this category of interests that the Government cannot take without compensation."  
[*Kaiser Aetna v. United States*, 444 U.S. 164 (1979)]

[11] See, e. g., *United States v. Pueblo of San Ildefonso*, 206 Ct.Cl. 649, 669-670, 513 F.2d. 1383, 1394 (1975); *United States v. Lutz*, 295 F.2d. 736, 740 (CA5 1961). As stated by Mr. Justice Brandeis, "[a]n essential element of individual property is the legal right to exclude others from enjoying it." *International News Service v. Associated Press*, 248 U.S. 215, 250 (1918) (dissenting opinion).

2. It's NOT your property if you can't exclude EVERYONE, including the GOVERNMENT from using, benefitting from the use, or taxing the specific property.
3. All constitutional rights and statutory privileges are property.
4. Anything that conveys a right or privilege is property.
5. Contracts convey rights or privileges and are therefore property.
6. All franchises are contracts between the grantor and the grantee and therefore property.

### 3.3 "Public" v. "Private" property ownership

Next, we would like to compare the two types of property: Public v. Private. There are two types of ownership of "property": Absolute and Qualified. The following definition describes and compares these two types of ownership:

Ownership. Collection of rights to use and enjoy property, including right to transmit it to others. Trustees of Phillips Exeter Academy v. Exeter, 92 N.H. 473, 33 A.2d. 665, 673. The complete dominion, title, or proprietary right in a thing or claim. The entirety of the powers of use and disposal allowed by law.

The right of one or more persons to possess and use a thing to the exclusion of others. The right by which a thing belongs to someone in particular, to the exclusion of all other persons. The exclusive right of possession, enjoyment, and disposal; involving as an essential attribute the right to control, handle, and dispose.

**Ownership of property is either absolute or qualified. The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws. The ownership is qualified when it is shared with one or more persons, when the time of enjoyment is deferred or limited, or when the use is restricted. Calif. Civil Code, §§678-680.**

There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by statute. Calif. Civil Code, §655.

In connection with burglary, "ownership" means any possession which is rightful as against the burglar.

See also Equitable ownership; Exclusive ownership; Hold; Incident of ownership; Interest; Interval ownership; Ostensible ownership; Owner; Possession; Title.  
[Black's Law Dictionary, Sixth Edition, p. 1106]

Participation in franchises causes PRIVATE property to transmute into PUBLIC property. Below is a table comparing these two great classes of property and the legal aspects of their status.

**Table 2: Public v. Private Property**

#	Characteristic	Public	Private
1	Authority for ownership comes from	Grantor/ creator of franchise	God/natural law
2	Type of ownership	Qualified	Absolute
3	Law protecting ownership	Statutory franchises	Bill of Rights (First Ten Amendments to the U.S. Constitution)
4	Owner is	The public as LEGAL owner and the human being as EQUITABLE owner	A single person as LEGAL owner
5	Ownership is a	Privilege/franchise	Right
6	Courts protecting ownership	Franchise court (Article 4 of the USA Constitution)	Constitutional court
7	Subject to taxation?	Yes	No (you have the right EXCLUDE government from using or benefitting from it)
8	Title held by	Statutory citizen (Statutory citizens are public officers)	Constitutional citizen (Constitutional citizens are human beings and may NOT be public officers)
9	Character of YOUR/HUMAN title	Equitable	Legal
10	Conversion to opposite type of property by	1. Removing government identifying number. 2. Donation.	1. Associating with government identifying number. <sup>4</sup> 2. Donation. 3. Eminent domain (with compensation). 4. THEFT (Internal Revenue Service).

Private and Public property MUST, at all times, remain completely separate from each other. If in fact rights are UNALIENABLE as declared in the Declaration of Independence, then you aren't allowed legally to consent to donate them

<sup>4</sup> See: *About SSNs and TINs on Government Forms and Correspondence, Form #05.012.*

to any government. Hence, they must remain private. You can't delegate that authority to anyone else either, because you can't delegate what you don't have:

*"Derativa potestas non potest esse major primitiva.  
The power which is derived cannot be greater than that from which it is derived."*

*"Nemo plus juris ad alienum transferre potest, quam ispe habent.  
One cannot transfer to another a right which he has not. Dig. 50, 17, 54; 10 Pet. 161, 175."  
[Bouvier's Maxims of Law, 1856;  
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]*

For a fascinating and powerful presentation showing why private and public are separate, how to keep them that way, and how governments illegally try to convert PRIVATE to PUBLIC in order to STEAL from you, see:

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

### **3.4 The purpose and foundation of de jure government: Protection of EXCLUSIVELY PRIVATE rights**

The main purpose for which all governments are established is the protection of EXCLUSIVELY PRIVATE rights and property. This purpose is the foundation of all the just authority of any government as held by the Declaration of Independence:

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

The fiduciary duty that a public officer who works for the government has is founded upon the requirement to protect PRIVATE property.

*"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer."<sup>5</sup> Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts.<sup>6</sup> That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves,<sup>7</sup> and owes a fiduciary duty to the public.<sup>8</sup> It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual.<sup>9</sup> Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.<sup>10</sup>"*  
[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

The VERY FIRST step that any lawful de jure government must take in protecting PRIVATE property and PRIVATE rights is to protect it from being converted to PUBLIC/GOVERNMENT property. After all: If the people you hire to

<sup>5</sup> State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

<sup>6</sup> Georgia Dep't of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

<sup>7</sup> Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

<sup>8</sup> United States v. Holzer (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L.Ed. 2d 18, 108 S.Ct. 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L.Ed. 2d 608, 108 S.Ct. 2022 and (criticized on other grounds by United States v. Osser (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in United States v. Little (CA5 Miss), 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in United States v. Boylan (CA1 Mass), 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

<sup>9</sup> Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

<sup>10</sup> Indiana State Ethics Comm'n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).



protect you won't even do the job of protecting you from THEM, why should you hire them to protect you from ANYONE ELSE?

The U.S. Supreme Court has also affirmed that the protection of PRIVATE rights and PRIVATE property is "the foundation of the government" when it held the following. The case below was a challenge to the constitutionality of the first national income tax, and the U.S. government rightfully lost that challenge:

*"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 [THEFT! and WEALTH TRANSFER by unconstitutional CONVERSION of PRIVATE property to PUBLIC property] 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), hearing the case against the first income tax passed by Congress that included people in states of the Union. They declared that first income tax UNCONSTITUTIONAL, by the way]*

In the above landmark case, the lawyer for the petitioner, Mr. Choate, even referred to the income tax as COMMUNISM, and he was obviously right! Why? Because communism like socialism operates upon the following political premises:

1. All property is PUBLIC property and there IS no PRIVATE property.
2. The government owns and/or controls all property and said property is GRANTED to the people with strings or conditions attached.
3. The government and/or the collective has rights superior to those of the individual. There is and can be NO equality or equal protection under the law without the right of PRIVATE property. In that sense, the government or the "state" is a pagan idol with "supernatural powers" because human beings are "natural" and they are inferior to the collective.
4. Control is synonymous with ownership. If the government CONTROLS the property but the citizen "owns" it, then:
  - 4.1. The REAL owner is the government.
  - 4.2. The ownership of the property is QUALIFIED rather than ABSOLUTE.
  - 4.3. The person holding the property is a mere CUSTODIAN over GOVERNMENT property and has EQUITABLE rather than LEGAL ownership. Hence, their name in combination with the Social Security Number constitutes a PUBLIC office synonymous with the government itself.
5. Everyone in temporary use of said property is an officer and agent of the state. A "public officer", after all, is someone who is in charge of the PROPERTY of the public. It is otherwise a crime to use public property for a PRIVATE use or benefit. That crime is called theft or conversion:

*"Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. Walker v. Rich, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. Yaselli v. Goff, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; Lacey v. State, 13 Ala.App. 212, 68 So. 706, 710; Curtin v. State, 61 Cal.App. 377, 214 P. 1030, 1035; Shelmadine v. City of Elkhart, 75 Ind.App. 493, 129 N.E. 878. State ex rel. Colorado River Commission v. Frohmiller, 46 Ariz. 413, 52 P.2d. 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as de- notes duration and continuance, with Independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. State v. Brennan, 49 Ohio.St. 33, 29 N.E. 593. [Black's Law Dictionary, Fourth Edition, p. 1235]*

Look at some of the planks of the Communist Manifesto, Karl Marx and confirm the above for yourself:

1. Abolition of property in land and application of all rents of land to public purposes.
  2. A heavy progressive or graduated income tax.
- [...]  
[Wikipedia Topic: "The Communist Manifesto", Downloaded 12-27-2011; SOURCE:  
[http://en.wikipedia.org/wiki/The\\_Communist\\_Manifesto](http://en.wikipedia.org/wiki/The_Communist_Manifesto)]

The legal definition of "property" confirms that one who OWNS a thing has the EXCLUSIVE right to use, dispose of, and CONTROL that property and ALL the fruits and "benefits" associated with it. The implication is that you as the PRIVATE owner have a right to EXCLUDE ALL OTHERS including all governments from using, benefitting from, or controlling

**Why Your Government is Either a Thief or You Are a "Public Officer" for Income Tax Purposes**

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your property. Governments, after all, are simply legal “persons” and the constitution guarantees that ALL “persons” are equal. If your neighbor can’t benefit from your property without your consent, then neither can any so-called “government”.

*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 everyone 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.*

[. . .]

[*Black's Law Dictionary, Fifth Edition, p. 1095*]

In a lawful de jure government under our constitution:

1. All “persons” are absolutely equal under the law. No government can have any more rights than a single human being, no matter how many people make up that government. If your neighbor can’t take your property without your consent, then neither can the government. The only exception to this requirement of equality is that artificial persons do not have constitutional rights, but only such “privileges” as statutory law grants them. See:

*Requirement for Equal Protection and Equal Treatment*, Form #05.033  
<http://sedm.org/Forms/FormIndex.htm>

2. All property is CONCLUSIVELY presumed to be EXCLUSIVELY PRIVATE until the GOVERNMENT meets the burden of proof on the record of the legal proceeding that you EXPRESSLY consented IN WRITING to donate the property or use of the property to the PUBLIC:

*“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 for income** which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.”*

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

3. You have to knowingly and intentionally DONATE your PRIVATE property to a public use and a PUBLIC purpose before the government can lawfully REGULATE its use. In other words, you have to at least SHARE your ownership of otherwise private property with the government and become an EQUITABLE rather than ABSOLUTE owner of the property before they can acquire the right to regulate its use or impose obligations or duties upon its original owner.
4. That donation ordinarily occurs by applying for and/or using a license in connection with the use of SPECIFIC otherwise PRIVATE property.

- 1 5. The process of applying for or using a license and thereby converting PRIVATE into PUBLIC cannot be compelled. If  
2 it is, the constitutional violation is called “**eminent domain**” without compensation or **STEALING**, in violation of the  
3 Fifth Amendment takings clause.
- 4 6. You have a **PUBLIC** persona (office) and a **PRIVATE** persona (human) at all times.
- 5 6.1. That which you **VOLUNTARILY** attach a government license number to, such as a Social Security Number or  
6 Taxpayer Identification Number, becomes **PRIVATE** property donated to a public use to procure the benefits of a  
7 **PUBLIC** franchise. That property, in turn, is effectively **OWNED** by the government grantor of your public  
8 persona and the public office it represents.
- 9 6.2. If you were compelled to use a government license number, such as an SSN or TIN, then a theft and taking  
10 without compensation has occurred, because all property associated with such numbers was unlawfully converted  
11 and **STOLEN**.
- 12 7. If the right to contract of the parties conducting any business transaction has any meaning at all, it implies the right to  
13 **EXCLUDE** the government from participation in their relationship.
- 14 7.1. You can write the contract such that neither party may use or invoke a license number, or complain to a licensing  
15 board, about the transaction, and thus the government is **CONTRACTED OUT** of the otherwise **PRIVATE**  
16 relationship. Consequently, the transaction becomes **EXCLUSIVELY PRIVATE** and government may not tax or  
17 regulate or arbitrate the relationship in any way under the terms of the license franchise.
- 18 7.2. Every consumer of your services has a right to do business with those who are unlicensed. This right is a natural  
19 consequence of the right to **CONTRACT** and **NOT CONTRACT**. The thing they are **NOT** contracting with is the  
20 **GOVERNMENT**, and the thing they are not contracting **FOR** is **STATUTORY/FRANCHISE** “protection”.  
21 Therefore, even those who have applied for government license numbers are **NOT** obligated to use them in  
22 connection with any specific transaction and may not have their licenses suspended or revoked for failure or  
23 refusal to use them for a specific transaction.
- 24 8. If the government invades the commercial relationship between you and those you do business with by forcing either  
25 party to use or invoke the license number or pursue remedies or “benefits” under the license, they are:
- 26 8.1. Interfering with your **UNALIENABLE** right to contract.
- 27 8.2. Compelling you to donate **EXCLUSIVELY PRIVATE** property to a **PUBLIC** use.
- 28 8.3. Exercising unconstitutional eminent domain over your otherwise **PRIVATE** property.
- 29 8.4. Compelling you to accept a public “benefit”, where the “protection” afforded by the license is the “benefit”.

30 The above requirements of the USA Constitution are circumvented with nothing more than the simple **PRESUMPTION**,  
31 usually on the part of the IRS and corrupted judges who want to **STEAL** from you, that the **GOVERNMENT** owns the  
32 property and that you have to prove that they **CONSENTED** to let you keep the fruits of it. They can’t and never have  
33 proven that they have such a right, and all such presumptions are a violation of due process of law.

34 (1) [8:4993] *Conclusive presumptions affecting protected interests:*

35 *A conclusive presumption may be defeated where its application would impair a party's constitutionally-*  
36 *protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a*  
37 *party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230,*  
38 *2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under*  
39 *Illinois law that unmarried fathers are unfit violates process]*  
40 *[Federal Civil Trials and Evidence, Rutter Group, 2006, paragraph 8:4993, p. 8K-34]*

41 In order to unconstitutionally and **TREASONOUSLY** circumvent the above limitation on their right to presume, corrupt  
42 governments and government actors will play “word games” with citizenship and key definitions in the **ENCRYPTED**  
43 “code” in order to **KIDNAP** your legal identity and place it **OUTSIDE** the above protections of the constitution by:

- 44 1. **PRESUMING** that you are a public officer and therefore, that everything held in your name is **PUBLIC** property of the  
45 **GOVERNMENT** and not **YOUR PRIVATE PROPERTY**. See:

*Why Your Government is Either a Thief or You are a “Public Officer” for Income Tax Purposes*, Form #05.008  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyThiefOrPubOfficer.pdf>

- 46 2. Abusing fraudulent information returns to criminally and unlawfully “elect” you into public offices in the government:

*Correcting Erroneous Information Returns*, Form #04.001  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/04-Tax/CorrErrInfoRtns/CorrErrInfoRtns.pdf>

- 1 3. PRESUMING that because you did not rebut evidence connecting you to a public office, then you CONSENT to  
2 occupy the office.  
3 4. PRESUMING that ALL of the four contexts for "United States" are equivalent.  
4 5. PRESUME that CONSTITUTIONAL citizens and STATUTORY citizens are EQUIVALENT under federal law. They  
5 are NOT. A CONSTITUTIONAL citizen is a "non-resident " under federal civil law and NOT a STATUTORY  
6 "national and citizen of the United States\*\* at birth" per 8 U.S.C. §1401. See the document below:

Why You are a "national", "state national", and Constitutional but not Statutory Citizen, Form #05.006

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

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/WhyANational.pdf>

- 7 6. PRESUMING that "nationality" and "domicile" are equivalent. They are NOT. See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002

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

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/Domicile.pdf>

- 8 7. Using the word "citizenship" in place of "nationality" OR "domicile", and refusing to disclose WHICH of the two they  
9 mean in EVERY context.  
10 8. Confusing the POLITICAL/CONSTITUTIONAL meaning of words with the civil STATUTORY context. For  
11 instance, asking on government forms whether you are a POLITICAL/CONSTITUTIONAL citizen and then  
12 FALSELY PRESUMING that you are a STATUTORY citizen under 8 U.S.C. §1401.  
13 9. Confusing the words "[domicile](#)" and "[residence](#)" or impute either to you without satisfying the burden of proving that  
14 you EXPRESSLY CONSENTED to it and thereby illegally kidnap your civil legal identity against your will. One can  
15 have only one "domicile" but many "residences" and BOTH require your consent. See:

Why Domicile and Becoming a "Taxpayer" Require Your Consent, Form #05.002

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

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/Domicile.pdf>

- 16 10. Adding things or classes of things to the meaning of statutory terms that do not EXPRESSLY appear in their  
17 definitions, in violation of the rules of statutory construction. See:

Legal Deception, Propaganda, and Fraud, Form #05.014

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

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/LegalDecPropFraud.pdf>

- 18 11. Refusing to allow the jury to read the definitions in the law and then give them a definition that is in conflict with the  
19 statutory definition. This substitutes the JUDGES will for what the law expressly says and thereby substitutes PUBLIC  
20 POLICY for the written law.  
21 12. Publishing deceptive government publications that are in deliberate conflict with what the statutes define "United  
22 States" as and then tell the public that they CANNOT rely on the publication. The [IRS does this with ALL of their](#)  
23 [publications](#) and it is FRAUD. See:

Reasonable Belief About Income Tax Liability, Form #05.007

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

DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/ReasonableBelief.pdf>

24 This kind of arbitrary discretion is PROHIBITED by the Constitution, as held by the U.S. Supreme Court:

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

28 [Yick Wo v. Hopkins, [118 U.S. 356, 369](#), 6 S. Sup.Ct. 1064, 1071]

29 Thomas Jefferson, our most revered founding father, precisely predicted the above abuses when he astutely said:

30 "It has long been my opinion, and I have never shrunk from its expression,... that the germ of dissolution of our  
31 Federal Government is in the constitution of the Federal Judiciary--an irresponsible body (for impeachment is  
32 scarcely a scare-crow), **working like gravity by night and by day, gaining a little today and a little tomorrow,**  
33 **and advancing its noiseless step like a thief over the field of jurisdiction until all shall be usurped from the**  
34 **States and the government be consolidated into one. To this I am opposed.**"

35 [Thomas Jefferson to Charles Hammond, 1821. ME 15:331]

36 "Contrary to all correct example, [the Federal judiciary] are in the habit of going out of the question before  
37 them, to throw an anchor ahead and grapple further hold for future advances of power. **They are then in fact**  
38 **the corps of sappers and miners, steadily working to undermine the independent rights of the States and to**  
39 **consolidate all power in the hands of that government in which they have so important a freehold estate.**"

40 [Thomas Jefferson: Autobiography, 1821. ME 1:121]



"The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a coordination of a general and special government to a general and supreme one alone. This will lay all things at their feet, and they are too well versed in English law to forget the maxim, 'boni judicis est ampliare jurisdictionem.'"

[Thomas Jefferson to Thomas Ritchie, 1820. ME 15:297]

"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated."

[Thomas Jefferson to Charles Hammond, 1821. ME 15:332]

"What an augmentation of the field for jobbing, speculating, plundering, office-building ["trade or business" scam] and office-hunting would be produced by an assumption [PRESUMPTION] of all the State powers into the hands of the General Government!"

[Thomas Jefferson to Gideon Granger, 1800. ME 10:168]

The key to preventing the unconstitutional abuse of presumption by the corrupted judiciary and IRS to STEAL from people is to completely understand the content of the following memorandum of law and consistently apply it in every interaction with the government:

<p><u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u>, Form #05.017 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></p>
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It ought to be very obvious to the reader that:

1. The rules for converting PRIVATE property to PUBLIC property ought to be consistently, completely, clearly, and unambiguously defined by every government officer you come in contact with, and ESPECIALLY in court. These rules ought to be DEMANDED to be declared EVEN BEFORE you enter a plea in a criminal case.
2. If the government asserts any right over your PRIVATE property, they are PRESUMING they are the LEGAL owner and relegating you to EQUITABLE ownership. This presumption should be forcefully challenged.
3. If they won't expressly define the rules, or try to cloud the rules for converting PRIVATE property to PUBLIC property, then they are:
  - 3.1. Defeating the very purpose for which they were established as a "government". Hence, they are not a true "government" but a de facto private corporation PRETENDING to be a "government", which is a CRIME under 18 U.S.C. §912.
  - 3.2. Exercising unconstitutional eminent domain over private property without the consent of the owner and without compensation.
  - 3.3. Trying to STEAL from you.
  - 3.4. Violating their fiduciary duty to the public.

### **3.5 The Right to be left alone**

The purpose of the Constitution of the United States of America is to confer the "right to be left alone", which is the essence of being sovereign:

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

[Olmstead v. United States, [277 U.S. 438, 478](#) (1928) (Brandeis, J., dissenting) ; see also Washington v. Harper, [494 U.S. 210](#) (1990)]

The legal definition of "justice" confirms that its purpose is to protect your right to be "left alone":

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

"Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interests of others, and, as far as possible, hinders such interference on the part of others. This virtue springs from the individual's respect for his fellows as ends in themselves and as his co equals. The

different spheres of interests may be roughly classified as follows: body and life; the family, or the extended individual life; property, or the totality of the instruments of action; honor, or the ideal existence; and finally freedom, or the possibility of fashioning one's life as an end in itself. The law defends these different spheres, thus giving rise to a corresponding number of spheres of rights, each being protected by a prohibition. . . . To violate the rights, to interfere with the interests of others, is injustice. All injustice is ultimately directed against the life of the neighbor; it is an open avowal that the latter is not an end in itself, having the same value as the individual's own life. The general formula of the duty of justice may therefore be stated as follows: Do no wrong yourself, and permit no wrong to be done, so far as lies in your power; or, expressed positively: Respect and protect the right."

[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 2]

The Bible also states the foundation of justice by saying:

"Do not strive with [or try to regulate or control or enslave] a man without cause, if he has done you no harm."

[Prov. 3:30, Bible, NKJV]

And finally, Thomas Jefferson agreed with the above by defining "justice" as follows in his First Inaugural Address:

"With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."

[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]

Therefore, the word "injustice" means interference with the equal rights of others absent their consent and which constitutes an injury NOT as any law defines it, but as the PERSON who is injured defines it. Under this conception of "justice", anything done with your consent cannot be classified as "injustice" or an injury.

Those who are "private persons" fit in the category of people who must be left alone as a matter of law:

"There is a clear distinction in this particular case between an individual and a corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the State. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights."

[Hale v. Henkel, 201 U.S. 43, 74 (1906)]

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Internal Revenue Manual (I.R.M.), Section 5.14.10.2 (09-30-2004)  
Payroll Deduction Agreements

2. **Private employers, states, and political subdivisions are not required to enter into payroll deduction agreements.** Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.

[SOURCE: <http://sedm.org/Exhibits/EX05.043.pdf>]

The U.S. Supreme Court has also held that the ability to regulate what it calls "private conduct" is repugnant to the constitution. It is the differentiation between PRIVATE rights and PUBLIC rights, in fact, that forms the basis for enforcing your right to be left alone:

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

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



Only by taking on a “public character” or engaging in “public conduct” rather than a “private” character may our actions become the proper or lawful subject of federal or state legislation or regulation.

“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. [500 U.S. 614, 620]

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)]

The phrase “subject only to the constraints of statutory or decisional law” refers ONLY to statutes or court decisions that pertain to licensed or privileged activities or franchises, all of which:

1. Cause the licensee or franchisee to represent a “public office” and work for the government.
2. Cause the licensee or franchisee to act in a representative capacity as an officer of the government, which is a federal corporation and therefore he or she becomes an “officer or employee of a corporation” acting in a representative capacity. See 26 U.S.C. §6671(b) and 26 U.S.C. §7434, which both define a “person” within the I.R.C. criminal and penalty provisions as an officer or employee of a corporation.
3. Change the effective domicile of the “office” or “public office” of the licensee or franchisee to federal territory pursuant to Federal Rule of Civil Procedure 17(b), 26 U.S.C. §7701(a)(39), and 26 U.S.C. §7408(d).

IV. PARTIES > Rule 17.

(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 [or the officers or “public officers” of the 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.

4. Create a “res” or “office” which is the subject of federal legislation and a “person” or “individual” within federal statutes. For instance, the definition of “individual” within 5 U.S.C. §552(a)(2) reveals that it is a government employee with a domicile in the statutory “United States”, which is federal territory. Notice that the statute below is in Title 5, which is “Government Organization and Employees”, and that “citizens and residents of the United States” share in common a legal domicile on federal territory. An “individual” is an officer of the government, and not a natural man or woman. The office is the “individual”, and not the man or woman who fills it:

(a) Definitions.— For purposes of this section—

(2) the term “individual” means a citizen of the United States or an alien lawfully admitted for permanent residence;

If you don’t maintain a domicile on federal territory, which is called the “United States” in the U.S. Code, or you don’t work for the government by participating in its franchises, then the government has NO AUTHORITY to even keep records on you under the authority of the Privacy Act and you would be committing perjury under penalty of perjury to call yourself an “individual” on a government form. Why? Because you are the sovereign and the sovereign is not the subject of the law, but the author of the law!

*“Since in common usage, the term person does not include the sovereign, statutes not employing the phrase are ordinarily construed to exclude it.”*

[United States v. Cooper Corporation, 312 U.S. 600 (1941)]

*“There is no such thing as a power of inherent Sovereignty in the government of the United States. In this country sovereignty resides in the People, and Congress can exercise no power which they have not, by their Constitution entrusted to it: All else is withheld.”*

[Juilliard v. Greenman, 110 U.S. 421 (1884)]

*“Sovereignty itself is, of course, not subject to law for it is the author and source of law;”*

[Yick Wo v. Hopkins, 118 U.S. 356 (1886)]

*“Under our form of government, the legislature is NOT supreme. It is only one of the organs of that ABSOLUTE SOVEREIGNTY which resides in the whole body of the PEOPLE; like other bodies of the government, it can only exercise such powers as have been delegated to it, and when it steps beyond that boundary, its acts.. are utterly VOID.”*

[Billings v. Hall, 7 CA. 1]

*“In Europe, the executive is synonymous with the sovereign power of a state...where it is too commonly acquired by force or fraud, or both...In America, however the case is widely different. Our government is founded upon compact. Sovereignty was, and is, in the people.”*

[The Betsy, 3 Dall 6]

In summary, the only way the government can control you through civil law is to connect you to public conduct or a “public office” within the government executed on federal territory. If they are asserting jurisdiction that you believe they don’t have, it is probably because:

1. You misrepresented your domicile as being on federal territory within the “United States” or the “State of \_\_\_” by declaring yourself to be either a statutory “U.S. citizen” pursuant to 8 U.S.C. §1401 or a statutory “resident” (alien) pursuant to 26 U.S.C. §7701(b)(1)(A). This made you subject to their laws and put you into a privileged state.
2. You filled out a government application for a franchise, which includes government benefits, professional licenses, driver’s licenses, marriage licenses, etc.
3. Someone else filed a document with the government which connected you to a franchise, even though you never consented to participate in the franchise. For instance, IRS information returns such as W-2, 1042S, 1098, and 1099 presumptively connect you to a “trade or business” in the U.S. government pursuant to 26 U.S.C. §6041. A “trade or business” is then defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. The only way to prevent this evidence from creating a liability under the franchise agreement provisions is to rebut it promptly. See:

Correcting Erroneous Information Returns, Form #04.001

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

### 3.6 The PUBLIC You (straw man) vs. the PRIVATE You (human)

It is extremely important to know the difference between PRIVATE and PUBLIC “persons”, because we all have private and public identities. This division of our identities is recognized in the following maxim of law:

*Quando duo juro concurrunt in und personâ, aequum est ac si essent in diversis.*

*When two rights [public right v. private right] concur in one person, it is the same as if they were two separate persons.* 4 Co. 118.

[Bouvier's Maxims of Law, 1856;  
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

The U.S. Supreme Court also recognizes the division of PUBLIC v. PRIVATE:

*"A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he administer or execute them."  
[United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883)]*

*"All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals."  
[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]*

*"...we are of the opinion that there is a clear distinction in this particular between an [PRIVATE] individual and a [PUBLIC] corporation, and that the latter has no right to refuse to submit its books and papers for an examination at the suit of the state. The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the state or to his neighbors to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the state, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the state, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights.*

*"Upon the other hand, the [PUBLIC] corporation is a creature of the state. It is presumed to be incorporated for the benefit of the public. It receives certain special privileges and franchises, and holds them subject to the laws of the state and the limitations of its charter. Its powers are limited by law. It can make no contract not authorized by its charter. Its rights to [201 U.S. 43, 75] act as a corporation are only preserved to it so long as it obeys the laws of its creation. There is a reserved right in the legislature to investigate its contracts and find out whether it has exceeded its powers. It would be a strange anomaly to hold that a state, having chartered a corporation to make use of certain franchises, could not, in the exercise of its sovereignty, inquire how these franchises had been employed, and whether they had been abused, and demand the production of the corporate books and papers for that purpose. The defense amounts to this: That an officer of a corporation which is charged with a criminal violation of the statute, may plead the criminality of such corporation as a refusal to produce its books. To state this proposition is to answer it. While an individual may lawfully refuse to answer incriminating questions unless protected by an immunity statute, it does not follow that a corporation, vested with special privileges and franchises, may refuse to show its hand when charged with an abuse of such privileges."  
[Hale v. Henkel, 201 U.S. 43 (1906)]*

The next time you are in court as a PRIVATE person, here are some questions for the next jury, judge, or government prosecutor trying to enforce a civil obligation upon you as a PRESUMED public officer called a "citizen", "resident", "person", or "taxpayer":

1. How do you, a PRIVATE human, "OBEY" a law without "EXECUTING" it? We'll give you a hint: It CAN'T BE DONE!
2. What "public office" or franchise does the government claim to have "created" and therefore have the right to control in the context of my otherwise exclusively PRIVATE property and PRIVATE rights under the Constitution?
3. Who is the "customer" in the context of the IRS: The STATUTORY "taxpayer" public office or the PRIVATE human filling the office?
4. Who gets to define what a "benefit" is in the context of "customers"? Isn't it the human volunteering to be surety for the "taxpayer" office and not the government grantor of the public office franchise?
5. What if I as the human compelled to become surety for the office define that compulsion as an INJURY rather than a BENEFIT? Does that "end the privilege" and the jurisdiction to tax and regulate?
6. Does the national government claim the right to create franchises within a constitutional state in order to tax them? The Constitution says they CANNOT and that this is an "invasion" within the meaning of Article 4, Section 4 of the Constitution:

*"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)]

7. Isn't a judge compelling you to violate your religious beliefs by compelling you to serve in a public office or accept the DUTIES of the office? Isn't this a violation of the First Commandment NOT to serve "other gods", which can and does mean civil rulers or governments?

But the thing displeased Samuel when they said, "Give us a king to judge us." So Samuel prayed to the Lord. And the Lord said to Samuel, "Heed the voice of the people in all that they say to you; for they have rejected Me [God], that I should not reign over them." According to all the works which they have done since the day that I brought them up out of Egypt, even to this day—with which they have forsaken Me and served other gods [Kings, in this case]—so they are doing to you also [government becoming idolatry]. Now therefore, heed their voice. However, you shall solemnly forewarn them, and show them the behavior of the king who will reign over them."

[1 Sam. 8:6-9, Bible, NKJV]

8. How can one UNILATERALLY ELECT themselves into public office by filling out a government form? The form isn't even signed by anyone in the government, such as a tax form or social security application, and therefore couldn't POSSIBLY be a valid contract anyway? Isn't this a FRAUD upon the United States and criminal bribery, using illegal "withholdings" to bribe someone to TREAT you as a public officer? See 18 U.S.C. §211.
9. How can a judge enforce civil statutory law that only applies to public officers without requiring proof on the record that you are CONSENSUALLY and LAWFULLY engaged in a public office? In other words, that you waived sovereign immunity by entering into a contract with the government.

"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 marshal, 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)]

10. Isn't this involuntary servitude in violation of the Thirteenth Amendment to serve in a public office if you DON'T consent and they won't let you TALK about the ABSENCE of your consent?
11. Isn't it a violation of due process of law to PRESUME that you are public officer WITHOUT EVIDENCE on the record from an unbiased witness who has no financial interest in the outcome?

"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."

[Black's Law Dictionary, Sixth Edition, p. 1185]

1 *"If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not*  
2 *due process of law. [...] the presumption of innocence under which **guilt must be proven by legally obtained***  
3 *evidence and the verdict must be supported by the evidence presented; rights at the earliest stage of the*  
4 *criminal process; and the guarantee that an individual will not be tried more than once for the same offence*  
5 *(double jeopardy).*  
6 *[Black's Law Dictionary, Sixth Edition, p. 500]*  
7

8 *"A presumption is neither evidence nor a substitute for evidence."<sup>11</sup>*  
9 *[American Jurisprudence 2d, Evidence, §181 (1999)]*

- 10 12. If the judge won't enforce the requirement that the government as moving party has the burden of proving WITH  
11 EVIDENCE that you were LAWFULLY "appointed or elected" to a public office, aren't you therefore PRESUMED to  
12 be EXCLUSIVELY PRIVATE and therefore beyond the reach of the civil statutory law?
- 13 13. Isn't the judge criminally obstructing justice to interfere with requiring evidence on the record that you lawfully  
14 occupy a public office? See 18 U.S.C. §1503, whereby the judge is criminally "influencing" the PUBLIC you.
- 15 14. Isn't an unsupported presumption that prejudices a PRIVATE right a violation of the Constitution and doesn't the  
16 rights that UNCONSTITUTIONAL presumption prejudicially conveys to the government constitute a taking of rights  
17 without just compensation in violation of the Fifth Amendment Takings Clause?
- 18 15. Don't the rights that UNCONSTITUTIONAL presumptions prejudicially convey to the government constitute a taking  
19 of rights without just compensation in violation of the Fifth Amendment Takings Clause?
- 20 16. By what authority does the judge impose federal civil law within a constitutional state of the Union because:  
21 16.1. Constitutional states are legislatively but not constitutionally foreign jurisdiction.  
22 16.2. Federal Rule of Civil Procedure 17(b) requires that those with a domicile outside of federal territory cannot be  
23 sued under federal law.  
24 16.3. The Rules of Decision Act, 28 U.S.C. §1652 dictates that state rather than federal law applies.  
25 16.4. National franchises and the PRIVATE law that implements them cannot be offered or enforced within  
26 constitutional states per License Tax Cases, 72 U.S. 462, 18 L.Ed. 497, 5 Wall. 462, 2 A.F.T.R. 2224 (1866).
- 27 17. Even if we ARE lawfully serving in a public office, don't we have the right to:  
28 17.1. Be off duty?  
29 17.2. Choose WHEN we want to be off duty?  
30 17.3. Choose WHAT financial transactions we want to connect to the office?  
31 17.4. Be protected in NOT volunteering to connect a specific activity to the public office? Governments LIE by calling  
32 something "voluntary" and yet refusing to protect those who do NOT consent to "volunteer", don't they?  
33 17.5. Not be coerced to sign up for OTHER, unrelated public offices when we sign up for a single office? For instance,  
34 do we have a right not become a FEDERAL officer when we sign up for a STATE "driver license" and "public  
35 office" that ALSO requires us to have a Social Security Number to get the license, and therefore to ALSO  
36 become a FEDERAL officer at the same time.  
37 If the answer to all the above is NO, then there ARE no PRIVATE rights or PRIVATE property and there IS no  
38 "government" because governments only protect PRIVATE rights and private property!

39 We'd love to hear a jury, judge, or prosecutor address this subject before they hall him away in a straight jacket to the  
40 nuthouse because of a completely irrational and maybe even criminal answer.

41 The next time you end up in front of a judge or government attorney enforcing a civil statute against you, you might want to  
42 insist on proof in the record during the process of challenging jurisdiction as a defendant or respondent:

- 43 1. WHICH of the two "persons" they are addressing or enforcing against.  
44 2. How the two statuses, PUBLIC v. PRIVATE, became connected.  
45 3. What specific act of EXPRESS consent connected the two. PRESUMPTION alone on the part of government can't. A  
46 presumption that the two became connected WITHOUT consent is an unconstitutional eminent domain in violation of  
47 the Fifth Amendment Takings Clause.

48 In a criminal trial, such a question would be called a "bill of particulars".

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<sup>11</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.



1 We can handle private and public affairs from the private, but we cannot handle private affairs from the public. The latter is  
2 one of the biggest mistakes many people make when trying to handle their commercial and lawful (private) or legal (public)  
3 affairs. Those who use PUBLIC property for PRIVATE gain in fact are STEALING and such stealing has always been a  
4 crime.

5 In law, all rights attach to LAND, and all privileges attach to one's STATUS under voluntary civil franchises. An example  
6 of privileged statuses include "taxpayer" (under the tax code), "person", "individual", "driver" (under the vehicle code),  
7 "spouse" (under the family code). Rights are PRIVATE, PRIVILEGES are PUBLIC.

8 In our society, the PRIVATE "straw man" was created by the application for the birth certificate. It is a legal person under  
9 contract law and under the Uniform Commercial Code (U.C.C.), with capacity to sue or be sued under the common law. It  
10 is PRIVATE PROPERTY of the human being described in the birth certificate.

11 The PUBLIC officer "straw man" (e.g. statutory "taxpayer") was created by the SSA Form SS-5, Application for the Social  
12 Security Card. It is a privileged STATUS under an [unconstitutional national franchise](#) of the [de facto government](#). It is  
13 PROPERTY of the national government. The PUBLIC "straw man" is thoroughly described in:

*Proof that There Is a "Straw Man", Form #05.042*  
<http://sedm.org/Forms/FormIndex.htm>

14 The PRIVATE "John Doe" is a statutory "non-resident non-person" not engaged in the "trade or business"/PUBLIC  
15 OFFICER franchise in relation to the PUBLIC. He exists in the republic and is a free inhabitant under the Articles of  
16 Confederation. He has inalienable rights and unlimited liabilities. Those unlimited liabilities are described in

*The Unlimited Liability Universe*  
<http://famguardian.org/Subjects/Spirituality/Articles/UnlimitedLiabilityUniverse.htm>

17 The PUBLIC "JOHN DOE" is a public office in the government corporation and statutory "U.S. citizen" per 8 U.S.C.  
18 §1401, 26 U.S.C. §3121(e), and 26 C.F.R. §1.1-1(c). He exists in the privileged [socialist democracy](#). He has "benefits",  
19 franchises, obligations, immunities, and limited liability.

20 In the PRIVATE, money is an ASSET and always in the form of something that has intrinsic value, i.e. gold or silver.  
21 Payment for anything is in the form of commercial set off.

22 In the PUBLIC, money is a LIABILITY or debt and normally takes the form of a promissory note, i.e. an Federal Reserve  
23 Note (FRN), a check, bond or note. Payment is in the form of discharge in the future.

24 The PRIVATE realm is the basis for all contract and commerce under the Uniform Commercial Code (U.C.C.). The  
25 PUBLIC realm was created by the bankruptcy of the PRIVATE entity. Generally, creditors can operate from the  
26 PRIVATE. PUBLIC entities are all debtors (or slaves). The exercise of the right to contract by the PRIVATE straw man  
27 makes human beings into SURETY for the PUBLIC straw man.

28 Your judicious exercise of your right to contract and the requirement for consent that protects it is the main thing that keeps  
29 the PUBLIC separate from the PRIVATE. See:

*Requirement for Consent, Form #05.003*  
<http://sedm.org/Forms/FormIndex.htm>

30 **Be careful how you use your right to contract!** It is the most DANGEROUS right you have because it can destroy ALL  
31 of your PRIVATE rights by converting them to PUBLIC rights and offices.

32 *"These general rules are well settled:*

33 *(1) That the United States, when it creates rights in individuals against itself [a "public right", which is a*  
34 *euphemism for a "franchise" to help the court disguise the nature of the transaction], is under no obligation*  
35 *to provide a remedy through the courts, United States ex rel. Dunlap v. Black, 128 U.S. 40, 9 Sup.Ct. 12, 32*  
36 *L.Ed. 354; Ex parte Atocha, 17 Wall. 439, 21 L.Ed. 696; Gordon v. United States, 7 Wall. 188, 195, 19 L.Ed.*



35; *De Groot v. United States*, 5 Wall. 419, 431, 433, 18 L.Ed. 700; *Comegys v. Vasse*, 1 Pet. 193, 212, 7 L.Ed. 108.

(2) **That where a statute creates a right and provides a special remedy, that remedy is exclusive.** *Wilder Manufacturing Co. v. Corn Products Co.*, 236 U.S. 165, 174, 175, 35 Sup.Ct. 398, 59 L.Ed. 520, Ann. Cas. 1916A, 118; *Amson v. Murphy*, 109 U.S. 238, 3 Sup.Ct. 184, 27 L.Ed. 920; *Barnet v. National Bank*, 98 U.S. 555, 558, 25 L.Ed. 212; *Farmers' & Mechanics' National Bank v. Dearing*, 91 U.S. 29, 35, 23 L.Ed. 196. Still the fact that the right and the remedy are thus intertwined might not, if the provision stood alone, require us to hold that the remedy expressly given excludes a right of review by the Court of Claims, where the decision of the special tribunal involved no disputed question of fact and the denial of compensation was rested wholly upon the construction of the act. See *Medbury v. United States*, 173 U.S. 492, 198, 19 Sup.Ct. 503, 43 L.Ed. 779; *Parish v. MacVeagh*, 214 U.S. 124, 29 Sup.Ct. 556, 53 L.Ed. 936; *McLean v. United States*, 226 U.S. 374, 33 Sup.Ct. 122, 57 L.Ed. 260; *United States v. Laughlin* (No. 200), 249 U.S. 440, 39 Sup.Ct. 340, 63 L.Ed. 696, decided April 14, 1919." [U.S. v. Babcock, 250 U.S. 328, 39 S.Ct. 464 (1919)]

All PUBLIC franchises are contracts or agreements and therefore participating in them is an act of contracting.

"It is generally conceded that a franchise is the subject of a contract between the grantor and the grantee, and that it does in fact constitute a contract when the requisite element of a consideration is present.<sup>12</sup> Conversely, a franchise granted without consideration is not a contract binding upon the state, franchisee, or pseudo-franchisee.<sup>13</sup> " [36 American Jurisprudence 2d, Franchises, §6: As a Contract (1999)]

Franchises include Social Security, income taxation ("trade or business"/public office franchise), unemployment insurance, driver licensing ("driver" franchise), and marriage licensing ("spouse" franchise).

**"You shall make no covenant [contract or franchise] with them [foreigners, pagans], nor with their [pagan government] gods [laws or judges].** They shall not dwell in your land [and you shall not dwell in theirs by becoming a "resident" or domiciliary in the process of contracting with them], lest they make you sin against Me [God]. For if you serve their [government] gods [under contract or agreement or franchise], it will surely be a snare to you. " [Exodus 23:32-33, Bible, NKJV]

Governments become corrupt by:

1. Refusing to recognize the PRIVATE.
2. Undermining or interfering with the invocation of the common law in courts of justice.
3. Allowing false information returns to be abused to convert the PRIVATE into the PUBLIC without the consent of the owner.
4. Destroying or undermining remedies for the protection of PRIVATE rights.
5. Replacing CONSTITUTIONAL courts with LEGISLATIVE FRANCHISE courts.
6. Making judges into statutory franchisees such as "taxpayers", through which they are compelled to have a conflict of interest that ultimately destroys or undermines all private rights. This is a crime and a civil offense in violation of 18 U.S.C. §208, 28 U.S.C. §144, and 28 U.S.C. §455.
7. Offering or enforcing government franchises to people not domiciled on federal territory. This breaks down the separation of powers and enforces franchise law extraterritorially.
8. Abusing "words of art" to blur or confuse the separation between the PUBLIC and the PRIVATE. (deception)
9. Removing the domicile prerequisite for participation in government franchises through policy and not law, thus converting them into essentially PRIVATE business ventures that operate entirely through the right to contract.
10. Abusing sovereign immunity to protect PRIVATE government business ventures, thus destroying competition and implementing a state-sponsored monopoly.

<sup>12</sup> *Larson v. South Dakota*, 278 U.S. 429, 73 L.Ed. 441, 49 S.Ct. 196; *Grand Trunk Western R. Co. v. South Bend*, 227 U.S. 544, 57 L.Ed. 633, 33 S.Ct. 303; *Blair v. Chicago*, 201 U.S. 400, 50 L.Ed. 801, 26 S.Ct. 427; *Arkansas-Missouri Power Co. v. Brown*, 176 Ark. 774, 4 S.W.2d. 15, 58 A.L.R. 534; *Chicago General R. Co. v. Chicago*, 176 Ill. 253, 52 N.E. 880; *Louisville v. Louisville Home Tel. Co.*, 149 Ky. 234, 148 S.W. 13; *State ex rel. Kansas City v. East Fifth Street R. Co.* 140 Mo. 539, 41 S.W. 955; *Baker v. Montana Petroleum Co.*, 99 Mont. 465, 44 P.2d. 735; *Re Board of Fire Comrs.* 27 N.J. 192, 142 A.2d. 85; *Chrysler Light & P. Co. v. Belfield*, 58 N.D. 33, 224 N.W. 871, 63 A.L.R. 1337; *Franklin County v. Public Utilities Com.*, 107 Ohio.St. 442, 140 N.E. 87, 30 A.L.R. 429; *State ex rel. Daniel v. Broad River Power Co.* 157 S.C. 1, 153 S.E. 537; *Rutland Electric Light Co. v. Marble City Electric Light Co.*, 65 Vt. 377, 26 A. 635; *Virginia-Western Power Co. v. Commonwealth*, 125 Va. 469, 99 S.E. 723, 9 A.L.R. 1148, cert den 251 U.S. 557, 64 L.Ed. 413, 40 S.Ct. 179, disapproved on other grounds *Victoria v. Victoria Ice, Light & Power Co.* 134 Va. 134, 114 S.E. 92, 28 A.L.R. 562, and disapproved on other grounds *Richmond v. Virginia Ry. & Power Co.* 141 Va. 69, 126 S.E. 353.

<sup>13</sup> *Pennsylvania R. Co. v. Bowers*, 124 Pa 183, 16 A 836.

11. Refusing to criminally prosecute those who compel participation in government franchises.
12. Turning citizenship into a statutory franchise, and thus causing people who claim citizen status to unwittingly become PUBLIC officers.
13. Allowing presumption to be used as a substitute for evidence in any proceeding to enforce government franchises against an otherwise PRIVATE party. This violates due process of law, unfairly advantages the government, and imputes to the government supernatural powers as an object of religious worship.

Therefore, it is important to learn how to be EXCLUSIVELY PRIVATE and a CREDITOR in all of our affairs. Freedom is possible in the PRIVATE; it is not even a valid fantasy in the realm of the PUBLIC.

Below is a summary:

**Table 3: Public v. Private**

#	Characteristic	Private	Public
1	Name	"John Doe"	"JOHN DOE" (idemsonans)
2	Created by	Birth certificate	Application for SS Card, Form SS-5
3	Property of	Human being	Government
4	Protected by	Common law	Statutory franchises
5	Type of rights exercised	Private rights Constitutional rights	Public rights Statutory privileges
6	Rights/privileges attach to	LAND you stand on	Statutory STATUS under a voluntary civil franchise
7	Courts which protect or vindicate rights/privileges	Constitutional courts under Article III in the true Judicial Branch	Legislative administrative franchise courts under Articles 1 and IV in the Executive Branch.
8	Domiciled on	Private property	Public property/federal territory
9	Commercial standing	Creditor	Debtor
10	Money	Gold and silver	Promissory note (debt instrument)
11	Sovereign being worshipped/obeyed	God	Governments and political rulers (The Beast, Rev. 19:19). Paganism
12	Purpose of government	Protect PRIVATE rights	Expand revenues and control over the populace and consolidate all rights and sovereignty to itself
13	Government consists of	Body POLITIC (PRIVATE) <b>and</b> body CORPORATE (PUBLIC)	Body CORPORATE (PUBLIC) <b>only</b> . All those in the body POLITIC are converted into officers of the corporation by abusing franchises.

### 3.7 The Ability to Regulate Private Rights and Private Conduct is Repugnant to the Constitution

The following cite establishes that private rights and private property are entirely beyond the control of the government:

*When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain. "A body politic," as aptly defined in the preamble of the Constitution of Massachusetts, "is a social compact by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." This does not confer power upon the whole people to control rights which are purely and exclusively private, Thorpe v. R. & B. Railroad Co., 27 Vt. 143; but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government, and 125\*125 has found expression in the maxim sic utere tuo ut alienum non lēdas. From this source come the police powers, which, as was said by Mr. Chief Justice Taney in the License Cases, 5 How. 583, "are nothing more or less than the powers of government inherent in every sovereignty. . . . that is to say, . . . the power to govern men and things." Under these powers the government regulates the conduct of its citizens one towards another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good. In their exercise it has been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, &c., and in so doing to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold. To this day, statutes are to be found in the States upon some or all these subjects; and we think it has never yet been successfully contended that such legislation came within any of the constitutional prohibitions against*

interference with private property. With the Fifth Amendment in force, Congress, in 1820, conferred power upon the city of Washington "to regulate . . . the rates of wharfage at private wharves, . . . the sweeping of chimneys, and to fix the rates of fees therefor, . . . and the weight and quality of bread," 3 Stat. 587, sect. 7; and, in 1848, "to make all necessary regulations respecting hackney carriages and the rates of fare of the same, and the rates of hauling by cartmen, wagoners, carmen, and draymen, and the rates of commission of auctioneers," 9 id. 224, sect. 2.  
[Munn v. Illinois, 94 U.S. 113 (1876),  
SOURCE: [http://scholar.google.com/scholar\\_case?case=6419197193322400931](http://scholar.google.com/scholar_case?case=6419197193322400931)]

Notice that they say that the ONLY basis to regulate private rights is to prevent injury of one man to another by the use of said property. They say that this authority is the origin of the "police powers" of the state. What they hide, however, is that these same POLICE POWERS involve the CRIMINAL laws and EXCLUDE the CIVIL laws or even franchises. You can TELL they are trying to hide something because around this subject they invoke the Latin language that is unknown to most Americans to conceal the nature of what they are doing. Whenever anyone invokes Latin in a legal setting, a red flag ought to go up because you KNOW they are trying to hide a KEY fact. Here is the Latin they invoked:

*"sic utere tuo ut alienum non laedas"*

The other phrase to notice in the Munn case above is the use of the word "social compact". A compact is legally defined as a contract.

*"Compact, n. An agreement or contract between persons, nations, or states. Commonly applied to working agreements between and among states concerning matters of mutual concern. A contract between parties, which creates obligations and rights capable of being enforced and contemplated as such between the parties, in their distinct and independent characters. A mutual consent of parties concerned respecting some property or right that is the object of the stipulation, or something that is to be done or forborne. See also Compact clause; Confederacy; Interstate compact; Treaty."*  
[Black's Law Dictionary, Sixth Edition, p. 281]

Therefore, one cannot exercise their First Amendment right to legally associate with or contract with a SOCIETY and thereby become a party to the "social compact/contract" without ALSO becoming a STATUTORY "citizen". By statutory citizen, we really mean a domiciliary of a SPECIFIC municipal jurisdiction, and not someone who was born or naturalized in that place. Hence, by STATUTORY citizen we mean a person who:

1. Has voluntarily chosen a civil domicile within a specific municipal jurisdiction and thereby become a "citizen" or "resident" of said jurisdiction. "citizens" or "residents" collectively are called "inhabitants".
2. Has indicated their choice of domicile on government forms in the block called "residence" or "permanent address".
3. CONSENTS to be protected by the regional civil laws of a SPECIFIC municipal government.

A CONSTITUTIONAL citizen, on the other hand, is someone who cannot consent to choose the place of their birth. These people in federal statutes are called "non-residents". Neither BEING BORN nor being PHYSICALLY PRESENT in a place is an express exercise of one's discretion or an act of CONSENT, and therefore cannot make one a government contractor called a statutory "U.S. citizen". That is why birth or naturalization determines nationality but not their status under the CIVIL laws. All civil jurisdiction is based on "consent of the governed", as the Declaration of Independence indicates. Those who do NOT consent to the civil laws that implement the social compact of the municipal government they are PHYSICALLY situated within are called "free inhabitants", "nonresidents", "transient foreigners", or "foreign sovereigns". These "free inhabitants" are mentioned in the Articles of Confederation, which continue to this day and they are NOT the same and mutually exclusive to a statutory "U.S. citizen". These "free inhabitants" instead are CIVILLY governed by the common law RATHER than the civil law.

Police men are NOT allowed to involve themselves in CIVIL disputes and may ONLY intervene or arrest anyone when a CRIME has been committed. They CANNOT arrest for an "infraction", which is a word designed to hide the fact that the statute being enforced is a CIVIL or FRANCHISE statute not involving the CRIMINAL "police powers". Hence, civil jurisdiction over PRIVATE rights is NOT authorized among those who HAVE such rights. Only those who know those rights and claim and enforce them, not through attorneys but in their proper person, have such rights. Nor can those PRIVATE rights lawfully be surrendered to a REAL, de jure government, even WITH consent, if they are, in fact UNALIENABLE as the Declaration of Independence indicates.

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

The only people who can consent to give away a right are those who HAVE no rights because they are domiciled on federal territory not protected by the Constitution or the Bill of Rights:

*"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)]

To apply these concepts, the police enforce the "vehicle code", but most of the vehicle code is a civil franchise that they may NOT enforce without ABUSING the police powers of the state. In recognition of these concepts, the civil provisions of the vehicle code are called "infractions" rather than "crimes". AND, before the civil provisions of the vehicle code may lawfully be enforced against those using the public roadways, one must be a "resident" with a domicile not within the state, but on federal territory where rights don't exist. All civil law attaches to SPECIFIC territory. That is why by applying for a driver's license, most state vehicle codes require that the person must be a "resident" of the state, meaning a person with a domicile within the statutory but not Constitutional "United States", meaning federal territory.

So what the vehicle codes in most states do is mix CRIMINAL and CIVIL and even PRIVATE franchise law all into one title of code, call it the "Vehicle code", and make it extremely difficult for even the most law abiding "citizen" to distinguish which provisions are CIVIL/FRANCHISES and which are CRIMINAL, because they want to put the police force to an UNLAWFUL use enforcing CIVIL rather than CRIMINAL law. This has the practical effect of making the "CODE" not only a deception, but void for vagueness on its face, because it fails to give reasonable notice to the public at large, WHICH specific provisions pertain to EACH subset of the population. That in fact, is why they have to call it "the code", rather than simply "law": Because the truth is encrypted and hidden in order to unlawfully expand their otherwise extremely limited civil jurisdiction. The two subsets of the population who they want to confuse and mix together in order to undermine your sovereignty are:

1. Those who consent to the "social compact" by choosing a domicile or residence within a specific municipal jurisdiction. These people are identified by the following statutory terms:
  - 1.1. Individuals.
  - 1.2. Residents.
  - 1.3. Citizens.
  - 1.4. Inhabitants.
  - 1.5. PUBLIC officers serving as an instrumentality of the government.
2. Those who do NOT consent to the "social compact" and who therefore are called:
  - 2.1. Free inhabitants.
  - 2.2. Nonresidents.
  - 2.3. Transient foreigners.
  - 2.4. Sojourners.
  - 2.5. EXCLUSIVELY PRIVATE human beings beyond the reach of the civil statutes implementing the social compact.

So how can they reach those in constitutional states with the vehicle code who are neither domiciled on federal territory nor representing a public office that is domiciled there? The way they get around the problem of only being able to enforce the CIVIL provisions of the vehicle code against domiciliaries of the federal zone is to:

1. Force those who apply for driver licenses to misrepresent their status so they appear as either statutory citizens or public officers on official business. This is done using the "permanent address" block and requiring a Social Security Number to get a license.

2. Confuse CONSTITUTIONAL “citizens” with STATUTORY “citizens”, to make them appear the same even though they are NOT.
3. Arrest people domiciled in constitutional states for driving WITHOUT a license, even though technically these provisions can only be enforceable against those who are acting as a public officer WHILE driving AND who are STATUTORY but not CONSTITUTIONAL “citizens”. This creates the false appearance that EVERYONE must have a license, rather than only those domiciled on federal territory or representing an office domiciled there.

The act of "governing" WITHOUT consent therefore implies CRIMINAL governing, not CIVIL governing. To procure CIVIL jurisdiction over a private right requires the CONSENT of the owner of the right. That is why the U.S. Supreme Court states in *Munn* the following:

*"When one becomes a member of society, he necessarily parts with some rights or privileges which, as an individual not affected by his relations to others, he might retain."*  
[*Munn v. Illinois*, 94 U.S. 113 (1876),  
SOURCE: [http://scholar.google.com/scholar\\_case?case=6419197193322400931](http://scholar.google.com/scholar_case?case=6419197193322400931)]

Therefore, if one DOES NOT consent to join a “society” as a statutory citizen, he RETAINS those SOVEREIGN rights that would otherwise be lost through the enforcement of the civil law. Here is how the U.S. Supreme Court describes this requirement of law:

*"Men are endowed by their Creator with certain unalienable rights, - 'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted. **That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations:***

*[1] **First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”];***

*[2] **second, that if he devotes it to a public use, he gives to the public a right to control that use; and***

*[3] **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)]

A PRIVATE right that is unalienable cannot be given away, even WITH consent. Hence, the only people that any government may CIVILLY govern are those without unalienable rights, all of whom MUST therefore be domiciled on federal territory where CONSTITUTIONAL rights do not exist. Obviously, Congress may by legislation IRREVOCABLY extend the protections of the Constitution to federal territory, but all federal territory is presumed to not be within the protections of the Constitution unless and until Congress permits it.

Notice that when they are talking about "regulating" conduct using CIVIL law, all of a sudden they mention "citizens" instead of ALL PEOPLE. These "citizens" are those with a DOMICILE within federal territory not protected by the Constitution:

*"Under these powers the government regulates the **conduct of its citizens** one towards another, and the manner in which each shall use his own property, when such regulation becomes necessary for the public good."*

All statutory "citizens" that they can regulate therefore must be WITHIN the government and be acting as public officers. Otherwise, they would continue to be PRIVATE parties beyond the CIVIL control of any government. Hence, in a Republican Form of Government where the People are sovereign:

1. The only "subjects" under the civil law are public officers in the government.
2. The government is counted as a STATUTORY "citizen" but not a CONSTITUTIONAL "citizen". All CONSTITUTIONAL citizens are human beings and CANNOT be artificial entities. All STATUTORY citizens, on the other hand, are artificial entities and franchises and NOT CONSTITUTIONAL citizens.

*"A corporation [the U.S. government, and all those who represent it as public officers, is a federal corporation per 28 U.S.C. §3002(15)(A)] is a citizen, resident, or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."*  
[19 *Corpus Juris Secundum* (C.J.S.), Corporations, §886 (2003)]



**Citizens of the United States within the meaning of this Amendment must be natural and not artificial persons; a corporate body is not a citizen of the United States.**<sup>14</sup>

<sup>14</sup> *Insurance Co. v. New Orleans*, 13 Fed. Cas. 67 (C.C.D.La. 1870). Not being citizens of the United States, corporations accordingly have been declared unable "to claim the protection of that clause of the Fourteenth Amendment which secures the privileges and immunities of citizens of the United States against abridgment or impairment by the law of a State." *Orient Ins. Co. v. Daggs*, 172 U.S. 557, 561 (1869). This conclusion was in harmony with the earlier holding in *Paul v. Virginia*, 75 U.S. (8 Wall.) 168 (1869), to the effect that corporations were not within the scope of the privileges and immunities clause of state citizenship set out in Article IV, Sec. 2. See also *Selover, Bates & Co. v. Walsh*, 226 U.S. 112, 126 (1912); *Berea College v. Kentucky*, 211 U.S. 45 (1908); *Liberty Warehouse Co. v. Tobacco Growers*, 276 U.S. 71, 89 (1928); *Grosjean v. American Press Co.*, 297 U.S. 233, 244 (1936).  
[SOURCE: Annotated Fourteenth Amendment, Congressional Research Service:  
[http://www.law.cornell.edu/anncon/html/amdt14a\\_user.html#amdt14a\\_hd1](http://www.law.cornell.edu/anncon/html/amdt14a_user.html#amdt14a_hd1)]

3. The only statutory "citizens" are public offices in the government.
4. By serving in a public office, one becomes the same type of "citizen" as the GOVERNMENT is.

These observations are consistent with the very word roots that form the word "republic". The following video says the word origin comes from "res publica", which means a collection of PUBLIC rights shared by the public. You must therefore JOIN "the public" and become a public officer before you can partake of said PUBLIC right.

**Overview of America**, SEDM Liberty University, Section 2.6  
<http://sedm.org/LibertyU/LibertyU.htm>

This gives a WHOLE NEW MEANING to Abraham Lincoln's Gettysburg Address, in which he refers to American government as:

*"A government of the people, by the people, and for the people."*

You gotta volunteer as an uncompensated public officer for the government to CIVILLY govern you. Hence, the only thing they can CIVILLY GOVERN, is the GOVERNMENT! Pretty sneaky, huh? Here is a whole memorandum of law on this subject proving such a conclusion:

**Why Statutory Civil Law is Law for Government and Not Private Persons**, Form #05.037  
FORMS PAGE: <http://sedm.org/Forms/FormIndex.htm>  
DIRECT LINK: <http://sedm.org/Forms/05-MemLaw/StatLawGovt.pdf>

The other important point we wish to emphasize is that those who are EXCLUSIVELY private and therefore beyond the reach of the civil law are:

1. Free inhabitants.
2. Not a statutory "person" under the civil law or franchise statute in question.
3. Not "individuals" under the CIVIL law if they are human beings. All statutory "individuals", in fact, are identified as "employees" under 5 U.S.C. §2105(a). This is the ONLY statute that describes HOW one becomes a statutory "individual" that we have been able to find.
4. "foreign", a "transient foreigner", and sovereign in respect to government CIVIL but not CRIMINAL jurisdiction.
5. NOT "subject to" but also not necessarily statutorily "exempt" under the civil or franchise statute in question.

For a VERY interesting background on the subject of this section, we recommend reading the following case:

*Mugler v. Kansas*, 123 U.S. 623 (1887)  
SOURCE: [http://scholar.google.com/scholar\\_case?case=12658364258779560123](http://scholar.google.com/scholar_case?case=12658364258779560123)



3.8 **“Public” v. “Private” employment: You Will Be ILLEGALLY Treated as a Public Officer if you Apply for or Receive Government “Benefits”<sup>14</sup>**

“All systems either of preference or of restraint, therefore, being thus completely taken away, the obvious and simple system of natural liberty establishes itself of its own accord. Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest his own way, and to bring both his industry and capital into competition with those of any other man or order of men. The sovereign is completely discharged from a duty, in the attempting to perform which he must always be exposed to innumerable delusions, and for the proper performance of which no human wisdom or knowledge could ever be sufficient: the duty of superintending the industry of private people.”

[Adam Smith, [\*An Inquiry into the Nature and Causes of the Wealth of Nations\*](#) (1776)]

The U.S. Supreme Court has held many times that the ONLY purpose for lawful, constitutional taxation is to collect revenues to support ONLY the machinery and operations of the government and its “employees”. This purpose, it calls a “public use” or “public purpose”:

“The power to tax is, therefore, the strongest, the most pervading of all powers of government, reaching directly or indirectly to all classes of the people. **It was said by Chief Justice Marshall, in the case of *McCulloch v. Md.*, 4 Wheat. 431, that the power to tax is the power to destroy.** A striking instance of the truth of the proposition is seen in the fact that the existing tax of ten per cent, imposed by the United States on the circulation of all other banks than the National Banks, drove out of existence every state bank of circulation within a year or two after its passage. This power can be readily employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is no implied limitation of the uses for which the power may be exercised.

**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.**

Coulter, J., in *Northern Liberties v. St. John’s Church*, 13 Pa.St. 104 says, very forcibly, ‘I think the common mind has everywhere taken in the understanding that **taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.**’ See, also *Pray v. Northern Liberties*, 31 Pa.St. 69; *Matter of Mayor of N.Y.*, 11 Johns., 77; *Camden v. Allen*, 2 Dutch., 398; *Sharpless v. Mayor*, supra; *Hanson v. Vernon*, 27 Ia., 47; *Whiting v. Fond du Lac*, supra.”

[[Loan Association v. Topeka](#), 20 Wall. 655 (1874)]

“A tax, in the general understanding of the term and as used in the constitution, signifies an exaction for the support of the government. The word has never thought to connote the expropriation of money from one group for the benefit of another.”

[[U.S. v. Butler](#), 297 U.S. 1 (1936)]

Black’s Law Dictionary defines the word “public purpose” as follows:

**“Public purpose.** In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. **The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals].** “Public purpose” that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. *Pack v. Southwestern Bell Tel. & Tel. Co.*, 215 Tenn. 503, 387 S.W.2d. 789, 794.

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community.**

<sup>14</sup> Source: [Great IRS Hoax](#), Form #11.302, Section 5.2.7; <http://sedm.org/Forms/FormIndex.htm>.

**and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business.”  
[Black’s Law Dictionary, Sixth Edition, p. 1231, Emphasis added]

A related word defined in Black’s Law Dictionary is “public use”:

**Public use.** Eminent domain. The constitutional and statutory basis for taking property by eminent domain. For condemnation purposes, “public use” is one which confers some benefit or advantage to the public; it is not confined to actual use by public. It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a “public advantage” or “public benefit” accrues sufficient to constitute a public use. *Montana Power Co. v. Bokma, Mont., 457 P.2d. 769, 772, 773.*

Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent domain, means a use concerning the whole community distinguished from particular individuals. But each and every member of society need not be equally interested in such use, or be personally and directly affected by it; if the object is to satisfy a great public want or exigency, that is sufficient. *Ringe Co. v. Los Angeles County, 262 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186.* The term may be said to mean public usefulness, utility, or advantage, or what is productive of general benefit. It may be limited to the inhabitants of a small or restricted locality, but must be in common, and not for a particular individual. The use must be a needful one for the public, which cannot be surrendered without obvious general loss and inconvenience. A “public use” for which land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in the sciences, changing conceptions of scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation. *Katz v. Brandon, 156 Conn. 521, 245 A.2d. 579, 586.*

See also *Condemnation*; *Eminent domain*.  
[Black’s Law Dictionary, Sixth Edition, p. 1232]

Black’s Law Dictionary also defines the word “tax” as follows:

**“Tax:** A charge by the government on the income of an individual, corporation, or trust, as well as the value of an estate or gift. The objective in assessing the tax is to generate revenue to be used for the needs of the public.

A pecuniary [relating to money] burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority. *In re Mytinger, D.C.Tex. 31 F.Supp. 977,978,979.* **Essential characteristics of a tax are that it is NOT A VOLUNTARY PAYMENT OR DONATION, BUT AN ENFORCED CONTRIBUTION, EXACTED PURSUANT TO LEGISLATIVE AUTHORITY.** *Michigan Employment Sec. Commission v. Patt, 4 Mich.App. 228, 144 N.W.2d. 663, 665. ...*  
[Black’s Law Dictionary, Sixth Edition, p. 1457]

So in order to be legitimately called a “tax” or “taxation”, the money we pay to the government must fit all of the following criteria:

1. The money must be used **ONLY** for the support of government. It cannot go to a private person, or even to those who THINK they are private but aren’t.
2. The subject of the tax must be “liable”, and responsible to pay for the support of government under the force of law.
3. The money must go toward a “public purpose” rather than a “private purpose”.
4. The monies paid cannot be described as wealth transfer between two people or classes of PRIVATE people within society.
5. The monies paid **cannot** aid one group of private individuals in society at the expense of another group, because this violates the concept of equal protection of law for all citizens found in Fourteenth Amendment, Section 1.

If the monies demanded by government do **not** fit **all** of the above requirements, then they are being used for a “private” purpose and **cannot** be called “taxes” or “taxation”, according to the U.S. Supreme Court. Actions by the government to enforce the payment of any monies that do **not** meet all the above requirements can therefore only be described as:

1. Theft and robbery by the government in the guise of “taxation”
2. Government by decree rather than by law
3. Extortion under the color of law in violation [18 U.S.C. §872](#).
4. Tyranny
5. Socialism
6. Mob rule and a tyranny by the “have-nots” against the “haves”
7. [18 U.S.C. §241](#): Conspiracy against rights. The IRS shares tax return information with states of the union, so that both of them can conspire to deprive you of your property.
8. [18 U.S.C. §242](#): Deprivation of rights under the color of law. The Fifth Amendment says that people in states of the Union cannot be deprived of their property without due process of law or a court hearing. Yet, the IRS tries to make it appear like they have the authority to just STEAL these people’s property for a fabricated tax debt that they aren’t even legally liable for.
9. [18 U.S.C. §247](#): Damage to religious property; obstruction of persons in the free exercise of religious beliefs
10. [18 U.S.C. §872](#): Extortion by officers or employees of the United States.
11. [18 U.S.C. §876](#): Mailing threatening communications. This includes all the threatening notices regarding levies, liens, and idiotic IRS letters that refuse to justify why government thinks we are “liable”.
12. [18 U.S.C. §880](#): Receiving the proceeds of extortion. Any money collected from Americans through illegal enforcement actions and for which the contributors are not “liable” under the law is extorted money, and the IRS is in receipt of the proceeds of illegal extortion.
13. [18 U.S.C. §1581](#): Peonage, obstructing enforcement. IRS is obstructing the proper administration of the Internal Revenue Code and the Constitution, which require that they respect those who choose NOT to volunteer to participate in the federal donation program identified under subtitle A of the I.R.C.
14. [18 U.S.C. §1583](#): Enticement into slavery. IRS tries to enlist “nontaxpayers” to rejoin the ranks of other peons who pay taxes they aren’t demonstrably liable for, which amount to slavery.
15. [18 U.S.C. §1589](#): Forced labor. Being forced to expend one’s personal time responding to frivolous IRS notices and pay taxes on my labor that I am not liable for.

The U.S. Supreme Court has further characterized all efforts to abuse the tax system in order to accomplish “wealth transfer” as “political heresy” that is a denial of republican principles that form the foundation of our Constitution, when it issued the following strong words of rebuke. Incidentally, the case below also forms the backbone of reasons why the Internal Revenue Code can never be anything more than private law that only applies to those who volunteer into it:

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

We also cannot assume or suppose that our government has the authority to make “gifts” of monies collected through its taxation powers, and especially not when paid to private individuals or foreign countries because:

1. The Constitution DOES NOT authorize the government to “gift” money to anyone within states of the Union or in foreign countries, and therefore, this is not a Constitutional use of public funds, nor does unauthorized expenditure of such funds produce a tangible public benefit, but rather an injury, by forcing those who do not approve of the gift to subsidize it and yet not derive any personal benefit whatsoever for it.
2. The Supreme Court identifies such abuse of taxing powers as “robbery in the name of taxation” above.

Based on the foregoing analysis, we are then forced to divide the monies collected by the government through its taxing powers into only two distinct classes. We also emphasize that every tax collected and every expenditure originating from the tax paid MUST fit into one of the two categories below:

**Table 4: Two methods for taxation**

#	Characteristic	Public use/purpose	Private use/purpose
1	Authority for tax	U.S. Constitution	Legislative fiat, tyranny

#	Characteristic	Public use/purpose	Private use/purpose
2	<b>Monies collected described by Supreme Court as</b>	Legitimate taxation	“Robbery in the name of taxation” (see <i>Loan Assoc. v. Topeka</i> , above)
3	<b>Money paid only to following parties</b>	Federal “employees”, contractors, and agents	Private parties with no contractual relationship or agency with the government
4	<b>Government that practices this form of taxation is</b>	A righteous government	A THIEF
5	<b>This type of expenditure of revenues collected is:</b>	Constitutional	Unconstitutional
6	<b>Lawful means of collection</b>	Apportioned direct or indirect taxation	Voluntary donation (cannot be lawfully implemented as a “tax”)
7	<b>Tax system based on this approach is</b>	A lawful means of running a government	A charity and welfare state for private interests, thieves, and criminals
8	<b>Government which identifies payment of such monies as mandatory and enforceable is</b>	A righteous government	A lying, thieving government that is deceiving the people.
9	<b>When enforced, this type of tax leads to</b>	Limited government that sticks to its corporate charter, the Constitution	Socialism Communism Mafia protection racket Organized extortion
10	<b>Lawful subjects of Constitutional, federal taxation</b>	Taxes on imports into states of the Union coming from foreign countries. See Constitution, Article 1, Section 8, Clause 3 (external) taxation.	No subjects of lawful taxation. Whatever unconstitutional judicial fiat and a deceived electorate will tolerate is what will be imposed and enforced at the point of a gun
11	<b>Tax system based on</b>	Private property VOLUNTARILY donated to a public use by its exclusive owner	All property owned by the state, which is FALSELY PRESUMED TO BE EVERYTHING. Tax becomes a means of “renting” what amounts to state property to private individuals for temporary use.

1 The U.S. Supreme Court also helped to clarify how to distinguish the two above categories when it said:

2 “It is undoubtedly the duty of the legislature which imposes or authorizes municipalities to impose a tax to see  
3 that it is not to be used for purposes of private interest instead of a public use, and the courts can only be  
4 justified in interposing when a violation of this principle is clear and the [87 U.S. 665] reason for interference  
5 cogent. And in deciding whether, in the given case, the object for which the taxes are assessed falls upon the  
6 one side or the other of this line, they must be governed mainly by the course and usage of the government,  
7 the objects for which taxes have been customarily and by long course of legislation levied, what objects or  
8 purposes have been considered necessary to the support and for the proper use of the government, whether  
9 state or municipal. Whatever lawfully pertains to this and is sanctioned by time and the acquiescence of the  
10 people may well be held to belong to the public use, and proper for the maintenance of good government,  
11 though this may not be the only criterion of rightful taxation.”  
12 [*Loan Association v. Topeka*, 20 Wall. 655 (1874)]

13 If we give our government the benefit of the doubt by “assuming” or “presuming” that it is operating lawfully and  
14 consistent with the model on the left above, then we have no choice but to conclude that everyone who lawfully receives  
15 any kind of federal payment MUST be either a federal “employee” or “federal contractor” on official duty, and that the  
16 compensation received must be directly connected to the performance of a sovereign or Constitutionally authorized  
17 function of government. Any other conclusion or characterization of a lawful tax other than this is irrational, inconsistent  
18 with the rulings of the U.S. Supreme Court on this subject, and an attempt to deceive the public about the role of limited  
19 Constitutional government based on Republican principles. This means that you cannot participate in any of the following  
20 federal social insurance programs WITHOUT being a federal “employee”, and if you refuse to identify yourself as a federal  
21 employee, then you are admitting that your government is a thief and a robber that is abusing its taxing powers:

1. Subtitle A of the Internal Revenue Code. I.R.C. (26 U.S.C.) sections 1, 32, and 162 all confer privileged financial benefits to the participant which constitute federal “employment” compensation.
2. Social Security.
3. Unemployment compensation.
4. Medicare.

An examination of the Privacy Act, [5 U.S.C. §552a\(a\)\(13\)](#), in fact, identifies all those who participate in the above programs as “federal personnel”, which means federal “employees”. To wit:

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a](#)  
[§ 552a. Records maintained on individuals](#)

(a) Definitions.— For purposes of this section—

(13) the term “Federal personnel” means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

The “individual” they are talking about above is further defined in [5 U.S.C. §552a\(a\)\(2\)](#) as follows:

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a](#)  
[§ 552a. Records maintained on individuals](#)

(a) Definitions.— For purposes of this section—

(2) the term “individual” means a citizen of the United States or an alien lawfully admitted for permanent residence;

The “citizen of the United States” they are talking about is based on the STATUTORY rather than CONSTITUTIONAL definition of the “United States”, which means it refers to “national and citizen of the United States\*\* at birth” under 8 U.S.C. §1401 rather than a CONSTITUTIONAL or Fourteenth Amendment “Citizen” or “citizen of the United States” respectively born in and domiciled in states of the Union. We cover this in:

[Why You are a “national”, “state national”, and Constitutional but not Statutory Citizen](#), Form #05.006  
<http://sedm.org/Forms/FormIndex.htm>

Also, note that both of the two preceding definitions are found within Title 5 of the U.S. Code, which is entitled “Government Organization and Employees”. Therefore, it refers ONLY to government “employees” and excludes private employees. There is no definition of the term “individual” anywhere in Title 26 (I.R.C.) of the U.S. Code or any other title that refers to private natural humans, because Congress cannot legislate for them. Notice the use of the phrase “private business” in the U.S. Supreme Court ruling below:

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

The purpose of the Constitution and the Bill of Rights instead is to REMOVE authority of the Congress to legislate for private persons and thereby protect their sovereignty and dignity. That is why the U.S. Supreme Court ruled the following:

*“The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the*



1 Government, the right to be let alone - the most comprehensive of rights and the right most valued by  
2 civilized men."  
3 [Olmstead v. United States, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting); see also Washington v.  
4 Harper, 494 U.S. 210 (1990)]

**QUESTIONS FOR DOUBTERS:** If you aren't a federal statutory "employee" as a person participating in Social Security and the Internal Revenue Code, then why are all of the Social Security Regulations located in Title 20 of the Code of Federal Regulations under parts 400-499, entitled "Employee Benefits"? See for yourself:

<https://law.justia.com/cfr/title20.html>

Below is the definition of "employee" for the purposes of the above:

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

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

[26 U.S.C. §3401\(c\) Employee](#)

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

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

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

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

- (A) the President;
- (B) a Member or Members of Congress, or the Congress;
- (C) a member of a uniformed service;
- (D) an individual who is an employee under this section;
- (E) the head of a Government controlled corporation; or
- (F) an adjutant general designated by the Secretary concerned under section 709 (c) of title 32;

- (2) engaged in the performance of a Federal function under authority of law or an Executive act; and
- (3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

Keeping in mind the following rules of statutory construction and interpretation, please show us SOMEWHERE in the statutes defining "employee" that EXPRESSLY includes PRIVATE human beings working as PRIVATE workers protected by the constitution and not subject to federal law:

**"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 \(2000\)](#)]

Another very important point to make here is that the purpose of nearly all federal law is to regulate "public conduct" rather than "private conduct". Congress must write laws to regulate and control every aspect of the behavior of its employees so that they do not adversely affect the rights of private individuals like you, who they exist exclusively to serve and protect. Most federal statutes, in fact, are exclusively for use by those working in government and simply do not apply to private citizens in the conduct of their private lives. This fact is exhaustively proven with evidence in:

[Why Statutory Civil Law is Law for Government and Not Private Persons](#), Form #05.037

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

Franchises of the National (not federal but national) government cannot apply to the private public at large because the Thirteenth Amendment says that involuntary servitude has been abolished. If involuntary servitude is abolished, then they can't use, or in this case "abuse" the authority of law to impose ANY kind of duty against anyone in the private public except possibly the responsibility to avoid hurting their neighbor and thereby depriving him of the equal rights he enjoys.

*For the commandments, "You shall not commit adultery," "You shall not murder," "You shall not steal," "You shall not bear false witness," "You shall not covet," and if there is any other commandment, are all summed up in this saying, namely, "You shall love your neighbor as yourself."*

*Love does no harm to a neighbor; therefore love is the fulfillment of [the ONLY requirement of] the law [which is to avoid hurting your neighbor and thereby love him].*  
[Romans 13:9-10, Bible, NKJV]

*"Do not strive with a man without cause, if he has done you no harm."*  
[Prov. 3:30, Bible, NKJV]

Thomas Jefferson, our most revered founding father, summed up this singular duty of government to LEAVE PEOPLE ALONE, and only interfere or impose a "duty" using the authority of law when people cause harm, when he said the following.

*"With all [our] blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens--a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities."*  
[Thomas Jefferson: 1st Inaugural, 1801. ME 3:320]

The U.S. Supreme Court confirmed this view, when it ruled:

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

What the U.S. Supreme Court is saying above is that the government has no authority to tell you how to run your private life. This is contrary to the whole idea of the Internal Revenue Code, whose main purpose is to monitor and control every aspect of those who are subject to it. In fact, it has become the chief means for Congress to implement what we call "social engineering". Just by the deductions they offer, people are incentivized into all kinds of crazy behaviors in pursuit of reductions in a liability that they in fact do not even have. Therefore, the only reasonable thing to conclude is that Internal

Revenue Code, Subtitle A which would “appear” to regulate the private conduct of all human beings in states of the Union, in fact:

1. Only applies to “public employees”, “public offices”, and federal instrumentalities in the official conduct of their duties on behalf of the municipal corporation located in the District of Columbia, which [4 U.S.C. §72](#) makes the “seat of government”.
2. Does not CREATE any new public offices or instrumentalities within the national government, but only regulates the exercise of EXISTING public offices lawfully created through Title 5 of the U.S. Code. The IRS abuses its forms to unlawfully CREATE public offices within the federal government. In payroll terminology, this is called “creating fictitious employees”, and it is not only quite common, but highly illegal and can get private workers FIRED on the spot if discovered.
3. Regulates PUBLIC and not PRIVATE conduct and therefore does not pertain to private human beings.
4. Constitutes a franchise and a “benefit” within the meaning of 5 U.S.C. §552a. Tax “refunds” and “deductions”, in fact, are the “benefit”, and 26 U.S.C. §162 says that all those who take deductions MUST, in fact, be engaged in a public office within the government, which is called a “trade or business”:

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II](#) > § 552a  
[§ 552a. Records maintained on individuals](#)

(a) Definitions.— For purposes of this section—

(12) the term “Federal benefit program” means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals: . . .

5. Has the job of concealing all the above facts in thousands of pages and hundreds of thousands of words so that the average American is not aware of it. They call it the “code” instead of simply “law” because it is private law you have to volunteer for and an “encryption” and concealment device for the truth. Now we know why former Treasury Secretary Paul O’Neil called the Internal Revenue Code “9500 pages of gibberish” before he quit his job in disgust and went on a campaign to criticize government.

The I.R.C. therefore essentially amounts to a part of the job responsibility and the “employment contract” of EXISTING “public employees”, “public officers”, and federal instrumentalities. This was also confirmed by the House of Representatives, who said that only those who take an oath of “public office” are subject to the requirements of the personal income tax. See:

<http://famguardian.org/Subjects/Taxes/Evidence/PublicOrPrivate-Tax-Return.pdf>

The total lack of authority of the government to regulate or tax private conduct explains why, for instance:

1. The vehicle code in your state cannot be enforced on PRIVATE property. It only applies on PUBLIC roads owned by the government
2. The family court in your state cannot regulate the exercise of unlicensed and therefore PRIVATE CONTRACT marriage. Marriage licenses are a franchise that make those applying into public officers. Family court is a franchise court and the equivalent of binding arbitration that only applies to fellow statutory government “employees”.
3. City conduct ordinances such as those prohibiting drinking by underage minors only apply to institutions who are licensed, and therefore PUBLIC institutions acting as public officers of the government.

Within the Internal Revenue Code, those legal “persons” who work for the government are identified as engaging in a “public office”. A “public office” within the Internal Revenue Code is called a “trade or business”, which is defined below. We emphasize that engaging in a privileged “trade or business” is the main excise taxable activity that in fact and in deed is what REALLY makes a person a “taxpayer” subject to the Internal Revenue Code, Subtitle A:

[26 U.S.C. Sec. 7701\(a\)\(26\)](#)

“The term ‘trade or business’ includes the performance of the functions of a [public office](#).”

Below is the definition of “public office”:

Public office

“Essential characteristics of a ‘public office’ are:

- (1) Authority conferred by law,
- (2) Fixed tenure of office, and
- (3) Power to exercise some of the sovereign functions of government.
- (4) Key element of such test is that “officer is carrying out a sovereign function’.
- (5) Essential elements to establish public position as ‘public office’ are:
  - (a) Position must be created by Constitution, legislature, or through authority conferred by legislature.
  - (b) Portion of sovereign power of government must be delegated to position,
  - (c) Duties and powers must be defined, directly or implied, by legislature or through legislative authority.
  - (d) Duties must be performed independently without control of superior power other than law, and
  - (e) Position must have some permanency.”

[Black’s Law Dictionary, Sixth Edition, p. 1230]

Those who are fulfilling the “functions of a public office” are under a legal, fiduciary duty as “trustees” of the “public trust”, while working as “volunteers” for the “charitable trust” called the “United States Government Corporation”, which we affectionately call “U.S. Inc.”:

“As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer.<sup>15</sup> Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts.<sup>16</sup> That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves,<sup>17</sup> and owes a fiduciary duty to the public.<sup>18</sup> It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual.<sup>19</sup> Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.<sup>20</sup>”

[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

“U.S. Inc.” is a federal corporation, as defined below:

“Corporations are also of all grades, and made for varied objects; all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes ‘all persons,’ ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. ‘No man shall be taken,’ ‘no man shall be disseised,’ without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution.”

[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, [36 U.S. 420](#) (1837)]

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

<sup>15</sup> State ex rel. Nagle v. Sullivan, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; Jersey City v. Hague, 18 N.J. 584, 115 A.2d. 8.

<sup>16</sup> Georgia Dep’t of Human Resources v. Sistrunk, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. Madlener v. Finley (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

<sup>17</sup> Chicago Park Dist. v. Kenroy, Inc., 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

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

<sup>19</sup> Chicago ex rel. Cohen v. Keane, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

<sup>20</sup> Indiana State Ethics Comm’n v. Nelson (Ind App), 656 N.E.2d. 1172, reh gr (Ind App) 659 N.E.2d. 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

PART VI - PARTICULAR PROCEEDINGS  
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE  
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS  
Sec. 3002. Definitions

(15) "United States" means -

(A) **a Federal corporation;**

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

Those who are acting as "public officers" for "U.S. Inc." have essentially donated their formerly private property to a "public use". In effect, they have joined the SOCIALIST collective and become partakers of money STOLEN from people, most of whom, do not wish to participate and who would quit if offered an informed choice to do so.

*"My son, if sinners [socialists, in this case] entice you,  
Do not consent [do not abuse your power of choice]  
If they say, "Come with us,  
Let us lie in wait to shed blood [of innocent "nontaxpayers"];  
Let us lurk secretly for the innocent 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 [share the stolen LOOT]"--*

*My son, do not walk in the way with them [do not ASSOCIATE with them and don't let the government  
FORCE you to associate with them either by forcing you to become a "taxpayer"/government whore or a  
"U.S. citizen"]  
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 [or unearned government benefits];  
It takes away the life of its owners."  
[Proverbs 1:10-19, Bible, NKJV]*

Below is what the U.S. Supreme Court says about those who have donated their private property to a "public use". The ability to volunteer your private property for "public use", by the way, also implies the ability to UNVOLUNTEER at any time, which is the part no government employee we have ever found is willing to talk about. I wonder why....DUHHHH!:

*"Men are endowed by their Creator with certain unalienable rights, 'life, liberty, and the pursuit of happiness;' and to 'secure,' not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor's injury, and that does not mean that he must use it for his neighbor's benefit; 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)]

In fact, the reason governments are created, according to the Declaration of Independence, is exclusively to protect PRIVATE rights. The only thing MENTIONED in the Declaration, as the object of protection is PEOPLE, not GOVERNMENTS. Government did not CREATE these PRIVATE, UNALIENABLE rights and therefore, they do not OWN them. They can only tax or regulate that which they CREATE, and the place they do the creating is in the definition section of franchise agreements. See:

Hierarchy of Sovereignty: The Power to Create is the Power to Tax, Family Guardian Fellowship  
<http://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>

The VERY first step in protecting PRIVATE rights held exclusively by HUMANS is to prevent them from being converted to PUBLIC rights or franchises without the EXPRESS written VOLUNTARY consent of those who have the legal capacity



to consent. Governments should not be using word games, equivocation, or other forms of legal treachery to compel the conversion from PRIVATE to PUBLIC. If you would like to know the legal boundaries for this separation between PRIVATE and PUBLIC and how it is illegally circumvented by covetous public servants, see:

*Separation Between Public and Private*, Form #12.025

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

Now some rules for how PUBLIC and PRIVATE must be kept separated or else the government has violated its fiduciary duty to protect PRIVATE property. These rules derive from the above document:

1. The PRIVATE constitutional rights of human beings are UNALIENABLE according to the Declaration of Independence.
  - 1.1. Hence, you aren't even allowed to give them away, even WITH your consent.
  - 1.2. The only place that consent can lawfully be given is on federal territory where private or constitutional or unalienable rights DO NOT exist in the first place.
  - 1.3. The rights created by the consent can be enforced on federal territory not within a state of the Union. All law is prima facie territorial. That is why all public offices are REQUIRED by 4 U.S.C. §72 to be exercised IN the "District of Columbia" and "NOT elsewhere".
2. Statutory "persons" are PUBLIC fictions of law, agents, and/or offices created in civil statutes by government as a civil franchise. All civil franchises are contracts between the government grantor and the participant. Hence PRIVATE human beings whose rights are unalienable are UNABLE to consent to a franchise contract if standing on land protected by the Constitution and must do so on federal territory AT THE TIME consent is given.
3. A civil or statutory or legal "person", whether it be a natural person, a corporation, or a trust, may ADD to its duties or join specific franchises through consent. HOWEVER:
  - 3.1. Licensing and franchises may not be used to CREATE new public offices.
  - 3.2. If licensing or franchises are abused to create NEW public offices, then those who engage in said offices outside the place "expressly authorized" to do so by Congress are criminally impersonating a public officer in violation of 18 U.S.C. §912.
  - 3.3. A subset of those engaging in a "public office" are federal "employees", but the term "public office" or "trade or business" encompass more than just government "employees". Corporations, for instance, are public offices and instrumentalities of the government grantor.
4. In law, when a human being volunteers to accept the legal duties of a "public office", it therefore becomes a "trustee", an agent, and fiduciary (as defined in 26 U.S.C. §6903) acting on behalf of the federal government by the operation of private contract/franchise law. It becomes essentially a "franchisee" of the federal government carrying out the provisions of the franchise agreement, which is found in:
  - 4.1. Internal Revenue Code, Subtitle A, in the case of the federal income tax.
  - 4.2. The Social Security Act, which is found in Title 42 of the U.S. Code.

If you would like to learn more about how this "trade or business" scam works, consult the authoritative article below:

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

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

If you would like to know more about the extreme dangers of participating in all government franchises and how you destroy ALL your Constitutional rights and protections by doing so, see:

1. *Government Franchises Course*, Form #12.012  
<http://sedm.org/Forms/FormIndex.htm>
2. *Government Instituted Slavery Using Franchises*, Form #05.030  
<http://sedm.org/Forms/FormIndex.htm>
3. SEDM Liberty University, Section 4:  
<http://sedm.org/LibertyU/LibertyU.htm>

The IRS Form 1042-S Instructions confirm that all those who use Social Security Numbers are engaged in the "trade or business" franchise:

*Box 14, Recipient's U.S. Taxpayer Identification Number (TIN)*

You must obtain and enter a U.S. taxpayer identification number (TIN) for:

- Any recipient whose income is effectively connected with the conduct of a [trade or business](#) in the United States.

[\[IRS Form 1042-S Instructions, p. 14\]](#)

Engaging in a “trade or business” therefore implies a “public office”. All those who USE “Taxpayer Identification Numbers” are therefore treated, USUALLY ILLEGALLY IF THEY ARE OTHERWISE PRIVATE, as public officers in the national government. All property associated with the number then is treated effectively as “private property donated to a public use to procure the benefits of a government franchise”. At that point, the person in control of said property is treated as a de facto manager and trustee over public property created by that donation process. That public property includes his/her formerly private time and services. The “employment agreement” for managing this newly, and in most cases ILLEGALLY created public property is the Internal Revenue Code, Subtitle A and the Social Security Act found in Title 42 of the U.S. Code.

The Social Security Number is therefore the equivalent of a “de facto license number” to act as a “public officer” for the federal government, who is a fiduciary or trustee subject to the plenary legislative jurisdiction of the federal government pursuant to [26 U.S.C. §7701\(a\)\(39\)](#), [26 U.S.C. §7408\(c\)](#), and [Federal Rule of Civil Procedure Rule 17\(b\)](#), regardless of where he might be found geographically, including within a state of the Union. The franchise agreement governs “choice of law” and where it’s terms may be litigated, which is the District of Columbia, based on the agreement itself.

The invisible process of essentially consenting to become a public officer of the national and not state government is a FRAUD because:

1. They don’t protect your right to NOT volunteer.
2. They refuse to prosecute the fraud once discovered and respond with silence to criminal complaints directed at stopping it. Remember: It is a maximum of law that such gross negligence is in essence and substance, FRAUD itself.
3. They don’t recognize even the EXISTENCE of a “non-resident non-person”, who is someone who DID NOT volunteer. To do so would mean a surrender of their “plausible deniability” in front of a legally ignorant jury.
4. They call those who insist that the withholdings and/or reportings associated with the fraudulently created public office “frivolous”, and yet refuse to address the content of this section or to address specifically how your property was LAWFULLY converted from PRIVATE to PUBLIC WITHOUT your consent. Even the taxation process requires, as a bare minimum, CONSENT to become a public officer.

Now let’s apply what we have learned to your employment situation. God said you cannot work for two companies at once. You can only serve one company, and that company is the federal government if you are receiving federal benefits:

*“No one can serve two masters [two employers, for instance]; 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. Written by a tax collector]*

Everything you make while working for your slave master, the federal government, is their property over which you are a fiduciary and “public officer”.

*“THE” + “IRS” = “THEIRS”*

A federal “public officer” has no rights in relation to their master, the federal government:

*“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 existence and your earnings as a federal "public officer" and "trustee" and "fiduciary" are entirely subject to the whim and pleasure of corrupted lawyers and politicians, and you must beg and grovel if you expect to retain anything:

"In the general course of human nature, A POWER OVER A MAN'S SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL."  
[Alexander Hamilton, *Federalist Paper No. 79*]

You will need an "exemption" from your new slave master specifically spelled out in law to justify *anything* you want to keep while working on the federal plantation. The 1040 return is a profit and loss statement for a federal business corporation called the "United States". You are in partnership with your slave master and they decide what scraps they want to throw to you in your legal "cage" AFTER they figure out whatever is left in financing their favorite pork barrel project and paying off interest on an ever-expanding and endless national debt. Do you really want to reward this type of irresponsibility and surety?

The W-4 therefore essentially is being deceptively and illegally MISUSED as a federal employment application. It is your badge of dishonor and a tacit admission that you can't or won't trust God and yourself to provide for yourself. Instead, you need a corrupted "protector" to steal money from your neighbor or counterfeit (print) it to help you pay your bills and run your life. Furthermore, if your private employer forced you to fill out the W-4 against your will or instituted any duress to get you to fill it out, such as threatening to fire or not hire you unless you fill it out, then he/she is:

1. Engaging in criminal identity theft. See:

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

2. Acting as an employment recruiter for the federal government.
3. Recruiting you into federal slavery in violation of the [Thirteenth Amendment](#), and [42 U.S.C. §1994](#).
4. Involved in a conspiracy to commit grand theft by stealing money from you to pay for services and protection you don't want and don't need.
5. Involved in racketeering and extortion in violation of [18 U.S.C. §1951](#).
6. Involved in money laundering for the federal government, by sending in money stolen from you to them, in violation of [18 U.S.C. §1956](#).

The higher ups at the IRS probably know the above, and they certainly aren't going to tell private employers or their underlings the truth, because they aren't going to look a gift horse in the mouth and don't want to surrender their defense of "plausible deniability". They will NEVER tell a thief who is stealing for them that they are stealing, especially if they don't have to assume liability for the consequences of the theft. No one who practices this kind of slavery, deceit, and evil can rightly claim that they are loving their neighbor and once they know they are involved in such deceit, they have a duty to correct it or become an "accessory after the fact" in violation of [18 U.S.C. §3](#). This form of deceit is also the sin most hated by God in the Bible. Below is a famous Bible commentary on [Prov. 11:1](#):

"As religion towards God is a branch of universal righteousness (he is not an honest man that is not devout), so righteousness towards men is a branch of true religion, for he is not a godly man that is not honest, nor can he expect that his devotion should be accepted; for, 1. Nothing is more offensive to God than deceit in commerce. A false balance is here put for all manner of unjust and fraudulent practices [of our public dis-servants] in dealing with any person [within the public], which are all an abomination to the Lord, and render those abominable [hated] to him that allow themselves in the use of such accursed arts of thriving. It is an affront to justice, which God is the patron of, as well as a wrong to our neighbour, whom God is the protector of. Men [in the IRS and the Congress] make light of such frauds, and think there is no sin in that which there is money to be got by, and, while it passes undiscovered, they cannot blame themselves for it; a blot is no blot till it is hit, Hos. 12:7, 8. But they are not the less an abomination to God, who will be the avenger of those that are defrauded by their brethren. 2. Nothing is more pleasing to God than fair and honest dealing, nor more necessary to make us and our devotions acceptable to him: A just weight is his delight. He himself goes by a just weight, and holds the scale of judgment with an even hand, and therefore is pleased with those that are herein followers of him. A balance cheats, under pretence of doing right most exactly, and therefore is the greater abomination to God."

[Matthew Henry's Commentary on the Whole Bible; Henry, M., 1996, c1991, under Prov. 11:1]

The Bible also says that those who participate in this kind of “commerce” with the government are practicing harlotry and idolatry. The Bible book of Revelations describes a woman called “Babylon the Great Harlot”.

*“And I saw a woman sitting on a scarlet beast which was full of names of blasphemy, having seven heads and ten horns. The woman was arrayed in purple and scarlet, and adorned with gold and precious stones and pearls, having in her hand a golden cup full of abominations and the filthiness of her fornication. And on her forehead a name was written:*

*MYSTERY, BABYLON THE GREAT, THE MOTHER OF HARLOTS AND OF THE ABOMINATIONS OF THE EARTH.*

*I saw the woman, drunk with the blood of the saints and with the blood of the martyrs of Jesus. And when I saw her, I marveled with great amazement.”*  
[Rev. 17:3-6, Bible, NKJV]

This despicable harlot is described below as the “woman who sits on many waters”.

*“Come, I will show you the judgment of the great harlot [Babylon the Great Harlot] who sits on many waters, with whom the kings of the earth [politicians and rulers] committed fornication, and the inhabitants of the earth were made drunk [indulged] with the wine of her fornication.”*  
[Rev. 17:1-2, Bible, NKJV]

These waters are simply symbolic of a democracy controlled by mobs of atheistic people who are fornicating with the Beast and who have made it their false, man-made god and idol:

*“The waters which you saw, where the harlot sits, are peoples, multitudes, nations, and tongues.”*  
[Rev. 17:15, Bible, NKJV]

The Beast is then defined in Rev. 19:19 as “the kings of the earth”, which today would be our political rulers:

*“And I saw the beast, the kings of the earth, and their armies, gathered together to make war against Him who sat on the horse and against His army.”*  
[Rev. 19:19, Bible, NKJV]

Babylon the Great Harlot is “fornicating” with the government by engaging in commerce with it. Black’s Law Dictionary defines “commerce” as “intercourse”:

*“**Commerce**. ...**Intercourse** by way of trade and traffic between different peoples or states and the citizens or inhabitants thereof, including not only the purchase, sale, and exchange of commodities, but also the instrumentalities [governments] and agencies by which it is promoted and the means and appliances by which it is carried on...”*  
[Black’s Law Dictionary, Sixth Edition, p. 269]

If you want your rights back people, you can’t pursue government employment in the context of your private job. If you do, the Bible, not us, says you are a harlot and that you are CONDEMNED to hell!

*And I heard another voice from heaven saying, “Come out of her, my people, lest you share in her sins, and lest you receive of her plagues. For her sins have reached to heaven, and God has remembered her iniquities. Render to her just as she rendered to you, and repay her double according to her works; in the cup which she has mixed, mix double for her. In the measure that she glorified herself and lived luxuriously, in the same measure give her torment and sorrow; for she says in her heart, ‘I sit as queen, and am no widow, and will not see sorrow.’ Therefore her plagues will come in one day—death and mourning and famine. And she will be utterly burned with fire, for strong is the Lord God who judges her.”*  
[Rev. 18:4-8, Bible, NKJV]

In summary, it ought to be very clear from reading this section then, that:

1. It is an abuse of the government’s taxing power, according to the U.S. Supreme Court, to pay public monies to private persons or to use the government’s taxing power to transfer wealth between groups of private individuals.
2. Because of these straight jacket constraints of the use of “public funds” by the government, the government can only lawfully make payments or pay “benefits” to persons who have contracted with them to render specific services that are authorized by the Constitution to be rendered.

3. The government had to create an intermediary called the “straw man” that is a public office or agent within the government and therefore part of the government that they could pay the “benefit” to in order to circumvent the restrictions upon the government from abusing its powers to transfer wealth between private individuals. That “straw man” is exhaustively described in :

*Proof That There Is a “Straw Man”*, Form #05.042  
<http://sedm.org/Forms/FormIndex.htm>

4. The straw man is a “public office” within the U.S. government. It is a creation of Congress and an agent and fiduciary of the government subject to the statutory control of Congress. It is therefore a public entity and not a private entity which the government can therefore lawfully pay public funds to without abusing its taxing powers.
5. Those who sign up for government contracts, benefits, franchises, or employment agree to become surety for the straw man or public office and agree to act in a representative capacity on behalf of a federal corporation in the context of all the duties of the office pursuant to Federal Rule of Civil Procedure 17(b).
6. Because the straw man is a public office, you can’t be compelled to occupy the office. You and not the government set the compensation or amount of money you are willing to work for in order to consensually occupy the office. If you don’t think the compensation is adequate, you have the right to refuse to occupy the office by refusing to connect your assets to the office using the de facto license number for the office called the Taxpayer Identification Number.

### 3.9 “Political (PUBLIC) law” v. “civil (PRIVATE/COMMON) law”

Within our republican government, the founding fathers recognized three classes of law:

1. Criminal law. Protects both PUBLIC and PRIVATE rights.
2. Civil law. Protects exclusively PRIVATE rights. In effect, it implements ONLY the common law and does not regulate the government at all.
3. Political law. Protects exclusively PUBLIC rights of public officers and offices within the government.

The above three types of law were identified in the following document upon which the founding fathers wrote the constitution and based the design of our republican form of government:

*The Spirit of Laws*, Charles de Montesquieu, 1758  
SOURCE: <http://famguardian.org/Publications/SpiritOfLaws/sol.htm>

*The Spirit of Laws* book is where the founding fathers got the idea of separation of powers and three branches of government: Executive, Legislative, and Judicial. Montesquieu defines “political law” and “political liberty” as follows:

*I. A general Idea.*

*I make a distinction between the laws that establish political liberty, as it relates to the constitution, and those by which it is established, as it relates to the citizen. The former shall be the subject of this book; the latter I shall examine in the next.*

[*The Spirit of Laws*, Charles de Montesquieu, 1758, Book XI, Section I;

SOURCE: [http://famguardian.org/Publications/SpiritOfLaws/sol\\_11.htm#001](http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm#001)]

The Constitution in turn is a POLITICAL document which represents law EXCLUSIVELY for public officers within the government. It does not obligate or abrogate any PRIVATE right. It defines what the courts call “public rights”, meaning rights possessed and owned exclusively by the government ONLY.

*“And the Constitution itself is in every real sense a law-the lawmakers being the people themselves, in whom under our system all political power and sovereignty primarily resides, and through whom such power and sovereignty primarily speaks. It is by that law, and not otherwise, that the legislative, executive, and judicial agencies which it created exercise such political authority as they have been permitted to possess. The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible. ‘We the People of the United States,’ it says, ‘do ordain and establish this Constitution.’ Ordain and establish! These are definite words of enactment, and without more would stamp what follows with the dignity and character of law. The framers of the Constitution, however, were not content to let the matter rest here, but provided explicitly-‘This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land.’ (Const. art. 6, cl. 2.) The supremacy of the Constitution as law is thus declared without qualification. That supremacy is absolute; the supremacy of a statute enacted by Congress is not absolute but conditioned upon its being made in pursuance of the Constitution. And a judicial tribunal, clothed by that instrument with complete judicial power, and, therefore, by the very nature of the power, required to ascertain and apply the law to the facts in every case or proceeding properly brought for*



adjudication, must apply the supreme law and reject the inferior statute whenever the two conflict. In the discharge of that duty, the opinion of the lawmakers that a statute passed by them is valid must be given great weight, *Adkins v. Children's Hospital*, [261 U.S. 525, 544](#), 43 S.Ct. 394, 24 A.L.R. 1238; but their opinion, or the court's opinion, that the statute will prove greatly or generally beneficial is wholly irrelevant to the inquiry. *Schechter Poultry Corp. v. United States*, [295 U.S. 495, 549](#), 550 S., 55 S.Ct. 837, 97 A.L.R. 947. "  
[*Carter v. Carter Coal Co.*, [298 U.S. 238](#) (1936)]

The vast majority of laws passed by Congress are what Montesquieu calls "political law" that is intended exclusively for the government and not the private citizen. The authority for implementing such political law is Article 4, Section 3, Clause 2 of the United States Constitution. To wit:

*United States Constitution*  
*Article 4, Section 3, Clause 2*

*The Congress shall have Power to dispose of and **make all needful Rules and Regulations respecting the Territory or other Property** belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.*

Tax franchise codes such as the Internal Revenue Code, for instance, are what Montesquieu calls "political law" exclusively for the government or public officer and not the private (CONSTITUTIONAL) citizen. Why? Because:

1. The U.S. Supreme Court identified taxes as a "political matter". "Political law", "political questions", and "political matters" cannot be heard by true constitutional courts and may ONLY be heard in legislative franchise courts officiated by the Executive and not Judicial branch:

*"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)]

2. The U.S. Tax Court:
  - 2.1. Is an Article I Court in the EXECUTIVE and not JUDICIAL branch, and hence, can only officiate over matters INTERNAL to the government. See 26 U.S.C. §7441.
  - 2.2. Is a POLITICAL court in the POLITICAL branch of the government. Namely, the Executive branch.
  - 2.3. Is limited to the District of Columbia because all public offices are limited to serve there per 4 U.S.C. §72. It travels all over the country, but this is done ILLEGALLY and in violation of the separation of powers.
3. The activity subject to excise taxation is limited exclusively to "public offices" in the government, which is what a "trade or business" is statutorily defined as in 26 U.S.C. §7701(a)(26).

[26 U.S.C. Sec. 7701\(a\)\(26\)](#)

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

In Book XXVI, Section 15 of the Spirit of Laws, Montesquieu says that POLITICAL laws should not be allowed to regulate CIVIL conduct, meaning that POLITICAL laws limited exclusively to the government should not be enforced upon the PRIVATE citizen or made to "appear" as though they are "civil law" that applies to everyone:

*The Spirit of Laws, Book XXVI, Section 15*

*15. That we should not regulate by the Principles of political Law those Things which depend on the Principles of civil Law.*

*As men have given up their natural independence to live under political laws, they have given up the natural community of goods to live under civil laws.*

***By the first, they acquired [PUBLIC] liberty; by the second, [PRIVATE] property. We should not decide by the laws of [PUBLIC] liberty, which, as we have already said, is only the government of the community, what***

ought to be decided by the laws concerning [PRIVATE] property. It is a paralogism to say that the good of the individual should give way to that of the public; this can never take place, except when the government of the community, or, in other words, the liberty of the subject is concerned; this does not affect such cases as relate to private property, because the public good consists in every one's having his property, which was given him by the civil laws, invariably preserved.

Cicero maintains that the Agrarian laws were unjust; because the community was established with no other view than that every one might be able to preserve his property.

Let us, therefore, lay down a certain maxim, that whenever the public good happens to be the matter in question, it is not for the advantage of the public to deprive an individual of his property, or even to retrench the least part of it by a law, or a political regulation. In this case we should follow the rigour of the civil law, which is the Palladium of [PRIVATE] property.

Thus when the public has occasion for the estate of an individual, it ought never to act by the rigour of political law; it is here that the civil law ought to triumph, which, with the eyes of a mother, regards every individual as the whole community.

If the political magistrate would erect a public edifice, or make a new road, he must indemnify those who are injured by it; the public is in this respect like an individual who treats with an individual. It is fully enough that it can oblige a citizen to sell his inheritance, and that it can strip him of this great privilege which he holds from the civil law, the not being forced to alienate his possessions.

After the nations which subverted the Roman empire had abused their very conquests, the spirit of liberty called them back to that of equity. They exercised the most barbarous laws with moderation: and if any one should doubt the truth of this, he need only read Beaumanoir's admirable work on jurisprudence, written in the twelfth century.

They mended the highways in his time as we do at present. He says, that when a highway could not be repaired, they made a new one as near the old as possible; but indemnified the proprietors at the expense of those who reaped any advantage from the road.<sup>43</sup> They determined at that time by the civil law; in our days, we determine by the law of politics.

[The Spirit of Laws, Charles de Montesquieu, 1758, Book XXVI, Section 15;  
SOURCE: [http://famguardian.org/Publications/SpiritOfLaws/sol\\_11.htm#001](http://famguardian.org/Publications/SpiritOfLaws/sol_11.htm#001)]

What Montesquieu is implying is what we have been saying all along, and he said it in 1758, which was even before the Declaration of Independence was written:

1. The purpose of establishing government is exclusively to protect PRIVATE rights.
2. PRIVATE rights are protected by the CIVIL law. The civil law, in turn is based in EQUITY rather than PRIVILEGE:

“Thus when the public has occasion for the estate of an individual, it ought never to act by the rigour of political law; it is here that the civil law ought to triumph, which, with the eyes of a mother, regards every individual as the whole community.”

3. PUBLIC or government rights are protected by the PUBLIC or POLITICAL or GOVERNMENT law and NOT the CIVIL law.
4. The first and most important role of government is to prevent the POLITICAL or GOVERNMENT law from being used or especially ABUSED as an excuse to confiscate or jeopardize PRIVATE property.

Unfortunately, it is precisely the above type of corruption that Montesquieu describes that is the foundation of the present de facto government, tax system, and money system. ALL of them treat every human being as a PUBLIC officer against their consent, and impose what he calls the “rigors of the political law” upon them, in what amounts to a THEFT and CONFISCATION of otherwise PRIVATE property by enforcing PUBLIC law against PRIVATE people.

The implications of Montesquieu’s position are that the only areas where POLITICAL law and CIVIL law should therefore overlap is in the exercise of the political rights to vote and serve on jury duty. Why? Because jurists are regarded as public officers in 18 U.S.C. §201(a)(1):

[TITLE 18](#) > [PART I](#) > [CHAPTER 11](#) > § 201  
[§ 201. Bribery of public officials and witnesses](#)

(a) For the purpose of this section—

(1) the term “public official” means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, **or a juror**;

However, it has also repeatedly been held by the courts that poll taxes are unconstitutional. Hence, voters technically are NOT to be regarded as public officers or franchisees for any purpose OTHER than their role as a voter. Recall that all statutory “Taxpayers” are public officers in the government.

In the days since Montesquieu, the purpose and definition of what he has called the CIVIL law has since been purposefully and maliciously corrupted so that it no longer protects exclusively PRIVATE rights or implements the COMMON law, but rather protects mainly PUBLIC rights and POLITICAL officers in the government. In other words, society has become corrupted by the following means that he warned would happen:

1. What Montesquieu calls CIVIL law has become the POLITICAL law.
2. There is not CIVIL (common) law anymore as he defines it, because the courts interfere with the enforcement of the common law and the protection of PRIVATE rights.
3. The purpose of government has transformed from protecting mainly PRIVATE rights using the common law to that of protecting PUBLIC rights using the STATUTE law, which in turn has become exclusively POLITICAL law.
4. All those who insist on remaining exclusively private cannot utilize any government service, because the present government forms refuse to recognize such a status or provide services to those with such status.
5. Everyone who wants to call themselves a “citizen” is no longer PRIVATE, but PUBLIC. “citizen” has become a public officer in the government rather than a private human being.
6. All “citizens” are STATUTORY rather than CONSTITUTIONAL in nature.
  - 6.1. There are no longer any CONSTITUTIONAL citizens because the courts refuse to recognize or protect them.
  - 6.2. People are forced to accept the duties of a statutory “citizen” and public officer to get any remedy at all in court or in any government agency.

The above transformations are documented in the following memorandum of law on our site:

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

### **3.10 Lawful methods for converting PRIVATE property into PUBLIC property**

Next, we must carefully consider all the rules by which EXCLUSIVELY PRIVATE property is lawfully converted into PUBLIC property subject to government control or civil regulation. These rules are important, because the status of a particular type of property as either PRIVATE or PUBLIC determines whether either COMMON LAW or STATUTORY LAW apply respectively.

In general, only by either accepting physical property from the government or voluntarily applying for and claiming a status or right under a government franchise can one procure a PUBLIC status and be subject to STATUTORY civil law. If one wishes to be governed ONLY by the common law, then they must make their status very clear in every interaction with the government and on EVERY government form they fill out so as to avoid connecting them to any statutory franchise. Below is an example from a U.S. Department of Justice guide for prosecuting “sovereign citizens” that proves WHY this is the case:

*“What evidence refutes a good faith defense will depend on the facts and circumstances of each case. It is often helpful to focus on evidence that shows the defendant knew the law but disregarded it or was simply defying it. For instance, evidence that the defendant received proper advice from a CPA or tax preparer, or that the defendant failed to consult legitimate sources about his or her understanding of the tax laws can be helpful. **To refute claims that wages are not income, that the defendant did not understand the meaning of “wages,” or that the defendant is a state citizen but not a citizen of the United States, look for loan applications during the prosecution period. Tax defiers and sovereign citizens never seem to have a problem understanding the definition of income on a loan application. They also do not hesitate to check the “yes” box to the question “are you a U.S. citizen.” Any evidence that the defendant accepted Government benefits, such as***

1 unemployment, Medicare, social security, or the Alaska Permanent Fund Dividend will also be helpful to  
2 refute the defendant's claims that he or she is not a citizen subject to federal laws."  
3 [Prosecuting Tax Defier and Sovereign Citizen Cases—Frequently Asked Questions, U.S. Attorneys Bulletin,  
4 Volume 61, No. 2, March 2013, p. 48;  
5 SOURCE: <http://famguardian.org/Publications/USAttyBulletins/usab6102.pdf>]

6 The bottom line is that if you accept a government benefit, they PRESUME the right to rape and pillage absolutely  
7 ANYTHING you own. Our Path to Freedom, Form #09.015 process, by the way, makes the use of the above OFFENSE by  
8 the government in prosecuting you IMPOSSIBLE. The exhaustive list of attachment forms we provide which define the  
9 terms on all government forms they could use as evidence to prove the above also defeat the above tactic by U.S.  
10 Attorneys. Also keep in mind that the above tactic is useful against the GOVERNMENT as an offensive weapon. If your  
11 property is private, you can grant it to THEM with FRANCHISE conditions found in Form #06.027. If they argue that you  
12 can't do it to them, indirectly they are destroying the main source of THEIR jurisdiction as well. Let them shoot  
13 themselves in the foot in front of the jury!

14 Below is a detailed list of the rules for converting PRIVATE property to PUBLIC property:

- 15 1. The purpose for establishing governments is mainly to protect private property. The Declaration of Independence  
16 affirms this:

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  
19 secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the  
20 governed, -"  
21 [Declaration of Independence, 1776]

- 22 2. Government protects private rights by keeping "public [government] property" and "private property" separate and  
23 never allowing them to be joined together. This is the heart of the separation of powers doctrine: separation of what is  
24 private from what is public with the goal of protecting mainly what is private. See:

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

- 25 3. All property not originally owned by the government BEGINS as private property. The only way to lawfully change it  
26 to public property is through the exercise of your unalienable constitutional right to contract. All franchises qualify as  
27 a type of contract, and therefore, franchises are one of many methods to lawfully convert PRIVATE property to  
28 PUBLIC property. The exercise of the right to contract, in turn, is an act of consent that eliminates any possibility of a  
29 legal remedy of the donor against the donee:

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

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

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

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

- 40 4. In law, all rights are "property".

41 **Property.** That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict  
42 legal sense, an aggregate of rights which are guaranteed and protected by the government. Fulton Light, Heat  
43 & Power Co. v. State, 65 Misc.Rep. 263, 121 N.Y.S. 536. The term is said to extend to every species of valuable  
44 right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to  
45 dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with  
46 it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things  
47 or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can  
48 have to anything; being used to refer to that right which one has to lands or tenements, goods or chattels, which  
49 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.  
[*Black's Law Dictionary*, Fifth Edition, p. 1095]

By protecting your constitutional rights, the government is protecting your PRIVATE property. Your rights are private property because they came from God, not from the government. Only what the government creates can become public property. An example is corporations, which are a public franchise that makes officers of the corporation into public officers.

5. The process of taxation is the process of converting "private property" into a "public use" and a "public purpose". Below are definitions of these terms for your enlightenment.

**Public use.** Eminent domain. The constitutional and statutory basis for taking property by eminent domain. For condemnation purposes, "public use" is one which confers some benefit or advantage to the public; it is not confined to actual use by public. It is measured in terms of right of public to use proposed facilities for which condemnation is sought and, as long as public has right of use, whether exercised by one or many members of public, a "public advantage" or "public benefit" accrues sufficient to constitute a public use. *Montana Power Co. v. Bokma, Mont.*, 457 P.2d. 769, 772, 773.

Public use, in constitutional provisions restricting the exercise of the right to take property in virtue of eminent domain, means a use concerning the whole community distinguished from particular individuals. But each and every member of society need not be equally interested in such use, or be personally and directly affected by it; if the object is to satisfy a great public want or exigency, that is sufficient. *Ringe Co. v. Los Angeles County*, 262 U.S. 700, 43 S.Ct. 689, 692, 67 L.Ed. 1186. The term may be said to mean public usefulness, utility, or advantage, or what is productive of general benefit. It may be limited to the inhabitants of a small or restricted locality, but must be in common, and not for a particular individual. The use must be a needful one for the public, which cannot be surrendered without obvious general loss and inconvenience. A "public use" for which land may be taken defies absolute definition for it changes with varying conditions of society, new appliances in the sciences, changing conceptions of scope and functions of government, and other differing circumstances brought about by an increase in population and new modes of communication and transportation. *Katz v. Brandon*, 156 Conn. 521, 245 A.2d. 579, 586.

See also Condemnation; Eminent domain.  
[*Black's Law Dictionary*, Sixth Edition, p. 1232]

**"Public purpose.** In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. **The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals].** "Public purpose" that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. *Pack v. Southwestern Bell Tel. & Tel. Co.*, 215 Tenn. 503, 387 S.W.2d. 789, 794.

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; **the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals.** A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."  
[*Black's Law Dictionary*, Sixth Edition, p. 1231, Emphasis added]



6. The federal government has no power of eminent domain within states of the Union. This means that they cannot lawfully convert private property to a public use or a public purpose within the exclusive jurisdiction of states of the Union:

*“The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in cases where it is delegated, and the court denies the faculty of the Federal Government to add to its powers by treaty or compact.”*

[Dred Scott v. Sandford, 60 U.S. 393, 508-509 (1856)]

7. The Fifth Amendment prohibits converting private property to a public use or a public purpose without just compensation if the owner does not consent, and this prohibition applies to the Federal government as well as states of the Union. It was made applicable to states of the Union by the Fourteenth Amendment in 1868.

*Fifth Amendment - Rights of Persons*

*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

[United States Constitution, Fifth Amendment]

If the conversion of private property to public property is done without the express consent of the party affected by the conversion and without compensation, then the following violations have occurred:

7.1. Violation of the Fifth Amendment “takings clause” above.

7.2. “Conversion” in violation of 18 U.S.C. §654.

7.3. Theft.

8. Because taxation involves converting private property to a public use, public purpose, and public office, then it involves eminent domain if the owner of the property did not expressly consent to the taking:

***Eminent domain.** The power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character. Housing Authority of Cherokee National of Oklahoma v. Langley, Okl., 555 P.2d. 1025, 1028. Fifth Amendment, U.S. Constitution.*

*In the United States, the power of eminent domain is founded in both the federal (Fifth Amend.) and state constitutions. However, the Constitution limits the power to taking for a public purpose and prohibits the exercise of the power of eminent domain without just compensation to the owners of the property which is taken. The process of exercising the power of eminent domain is commonly referred to as “condemnation”, or, “expropriation”.*

*The right of eminent domain is the right of the state, through its regular organization, to reassert, either temporarily or permanently, its dominion over any portion of the soil of the state on account of public exigency and for the public good. Thus, in time of war or insurrection, the proper authorities may possess and hold any part of the territory of the state for the common safety; and in time of peace the legislature may authorize the appropriation of the same to public purposes, such as the opening of roads, construction of defenses, or providing channels for trade or travel. Eminent domain is the highest and most exact idea of property remaining in the government, or in the aggregate body of the people in their sovereign capacity. It gives a right to resume the possession of the property in the manner directed by the constitution and the laws of the state, whenever the public interest requires it.*

*See also Adequate compensation; Condemnation; Constructive taking; Damages; Expropriation; Fair market value; Just compensation; Larger parcel; Public use; Take.*

[Black’s Law Dictionary, Fifth Edition, p. 470]

9. The Fifth Amendment requires that any taking of private property without the consent of the owner must involve compensation. The Constitution must be consistent with itself. The taxation clauses found in Article 1, Section 8, Clauses 1 and 3 cannot conflict with the Fifth Amendment. The Fifth Amendment contains no exception to the requirement for just compensation upon conversion of private property to a public use, even in the case of taxation. This is why all taxes must be indirect excise taxes against people who provide their consent by applying for a license to

engage in the taxed activity: The application for the license constitutes constructive consent to donate the fruits of the activity to a public use, public purpose, and public office.

10. There is only ONE condition in which the conversion of private property to public property does NOT require compensation, which is when the owner donates the private property to a public use, public purpose, or public office. To wit:

*“Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.”*

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

The above rules are summarized below:

**Table 5: Rules for converting private property to a public use or a public office**

#	Description	Requires consent of owner to be taken from owner?
1	The owner of property justly acquired enjoys full and exclusive use and control over the property. This right includes <u>the right to exclude government uses</u> or ownership of said property.	Yes
2	He may not use the property to injure the equal rights of his neighbor. For instance, when you murder someone, the government can take your liberty and labor from you by putting you in jail or your life from you by instituting the death penalty against you. Both your life and your labor are “property”. Therefore, the basis for the “taking” was violation of the equal rights of a fellow sovereign “neighbor”.	No
3	He cannot be compelled or required to use it to “benefit” his neighbor. That means he cannot be compelled to donate the property to any franchise that would “benefit” his neighbor such as Social Security, Medicare, etc.	Yes
4	If he donates it to a public use, he gives the public the right to control that use.	Yes
5	Whenever the public needs require, the public may take it without his consent upon payment of due compensation. E.g. “ <u>eminent domain</u> ”.	No

11. The following two methods are the ONLY methods involving consent of the owner that may be LAWFULLY employed to convert PRIVATE property into PUBLIC property. Anything else is unlawful and THEFT:

11.1. DIRECT CONVERSION: Owner donates the property by conveying title or possession to the government.<sup>21</sup>

11.2. INDIRECT CONVERSION: Owner assumes a PUBLIC status as a PUBLIC officer in the HOLDING of title to the property.<sup>22</sup> All such statuses and the rights that attach to it are creations and property of the government, the use of which is a privilege. The status and all PUBLIC RIGHTS that attach to it conveys a “benefit” for which the status user must pay an excise tax. The tax acts as a rental or use fee for the status, which is government property.

12. You and ONLY you can authorize your private property to be donated to a public use, public purpose, and public office. No third party can lawfully convert or donate your private property to a public use, public purpose, or public office without your knowledge and express consent. If they do, they are guilty of theft and conversion, and especially if they are acting in a quasi-governmental capacity as a “withholding agent” as defined in 26 U.S.C. §7701(a)(16).

12.1. A withholding agent cannot file an information return connecting your earnings to a “trade or business” without you actually occupying a “public office” in the government BEFORE you filled out any tax form.

12.2. A withholding agent cannot file IRS Form W-2 against your earnings if you didn’t sign an IRS Form W-4 contract and thereby consent to donate your private property to a public office in the U.S. government and therefore a “public use”.

12.3. That donation process is accomplished by your own voluntary self-assessment and ONLY by that method. Before such a self-assessment, you are a “nontaxpayer” and a private person. After the assessment, you become a “taxpayer” and a public officer in the government engaged in the “trade or business” franchise.

12.4. In order to have an income tax liability, you must complete, sign, and “file” an income tax return and thereby assess yourself:

*“Our system of taxation is based upon voluntary assessment and payment, not distraint.”*  
[Flora v. U.S., 362 U.S. 145 (1960)]

By assessing yourself, you implicitly give your consent to allow the public the right to control that use of the formerly PRIVATE property donated to a public use.

<sup>21</sup> An example of direct conversion would be the process of “registering” a vehicle with the Department of Motor Vehicles in your state. The act of registration constitutes consent by original ABSOLUTE owner to change the ownership of the property from ABSOLUTE to QUALIFIED and to convey legal title to the state and qualified title to himself.

<sup>22</sup> An example of a PUBLIC status is statutory “taxpayer” (public office called “trade or business”), statutory “citizen”, statutory “driver” (vehicle), statutory voter (registered voters are public officers).

1 A THEFT of property has occurred on behalf of the government if it attempts to do any of the following:

- 2 1. Circumvents any of the above rules.
- 3 2. Blurs, confuses, or obfuscates the distinction between PRIVATE property and PUBLIC property.
- 4 3. Refuses to identify EXACTLY which of the mechanisms identified in item 10 above was employed in EACH specific
- 5 case where it:
- 6 3.1. Asserts a right to regulate the use of private property.
- 7 3.2. Asserts a right to convert the character of property from PRIVATE to PUBLIC.
- 8 3.3. Asserts a right to TAX what you THOUGHT was PRIVATE property.

9 The next time someone from the government asserts a tax obligation, you might want to ask them the following very  
10 insightful questions based on the content of this section:

- 11 1. Please describe at EXACTLY what point in the taxation process my earnings were LAWFULLY converted from  
12 EXCLUSIVELY PRIVATE to PUBLIC and thereby became SUBJECT to civil statutory law and government  
13 jurisdiction. Check one or more. If none are checked, it shall CONCLUSIVELY be PRESUMED that no tax is owed,  
14 that there was never a lawful conversion from PRIVATE to PUBLIC of the specific property:
- 15 a. ☐ When I was born?
- 16 b. ☐ When I became a CONSTITUTIONAL citizen?
- 17 c. ☐ When I changed my domicile to a CONSTITUTIONAL and not STATUTORY "State".
- 18 d. ☐ When I indicated "U.S. citizen" or "U.S. resident" on a government form, and the agent accepting it  
19 FALSELY PRESUMED that meant I was a STATUTORY "national and citizen of the United States" per 8 U.S.C.  
20 §1401 rather than a CONSTITUTIONAL "citizen of the United States"?
- 21 e. ☐ When I disclosed and used a Social Security Number or Taxpayer Identification Number to my otherwise  
22 PRIVATE employer?
- 23 f. ☐ When I submitted my withholding documents, such as IRS Forms W-4 or W-8?
- 24 g. ☐ When the information return was filed against my otherwise PRIVATE earnings that connected my  
25 otherwise PRIVATE earnings to a PUBLIC office in the national government?
- 26 h. ☐ When I FAILED to rebut the false information return connecting my otherwise PRIVATE earnings to a  
27 PUBLIC office in the national government?
- 28 i. ☐ When I filed a "taxpayer" form, such as IRS Forms 1040 or 1040NR?
- 29 j. ☐ When the IRS or state did an assessment under the authority of 26 U.S.C. §6020(b).
- 30 k. ☐ When I failed to rebut a collection notice from the IRS?
- 31 l. ☐ When the IRS levied monies from my EXCLUSIVELY private account, which must be held by a PUBLIC  
32 OFFICER per 26 U.S.C. §6331(a) before it can lawfully be levied?
- 33 m. ☐ When the government decided they wanted to STEAL my money and simply TOOK it, and were protected  
34 from the THEFT by a complicit United States Department of Justice, who split the proceeds with them?
- 35 n. ☐ When I demonstrated legal ignorance of the law to the government sufficient to overlook or not recognize  
36 that it is impossible to convert PRIVATE to PUBLIC without my consent, as the Declaration of Independence  
37 requires?
- 38 2. How can the conversion from PRIVATE to PUBLIC occur without my consent and without violating the Fifth  
39 Amendment Takings Clause?
- 40 3. If you won't answer the previous questions, how the HELL am I supposed to receive constitutionally mandated  
41 "reasonable notice" of the following:
- 42 a. EXACTLY what property I exclusively own and therefore what property is NOT subject to government taxation  
43 or regulation?
- 44 b. EXACTLY what conduct is expected of me by the law?
- 45 4. EXACTLY where in your publications is the first question answered and why should I believe it if even you refuse to  
46 take responsibility for the accuracy of said publications?
- 47 5. EXACTLY where in the statutes and regulations is the first question answered?
- 48 6. How can you refuse to answer the above questions if your own mission statement says you are required to help people  
49 obey the law and comply with the law?

### 50 **3.11 Unlawful methods abused by government to convert PRIVATE property to PUBLIC property**

51 There are a LOT more ways to UNLAWFULLY convert PRIVATE property to PUBLIC property than there are ways to do  
52 it lawfully. This section will address the most prevalent methods abused by state actors so that you will immediately

recognize them when you are victimized by them. For the purposes of this section CONTROL and OWNERSHIP are synonymous. Hence, if the TITLE of the property remains in your name but there is any aspect of control over the USE of said property that does not demonstrably injure others, then the property ceases to be absolutely owned and therefore is owned by the government.

Based on the previous section, there is ONLY one condition in which PRIVATE property can be converted to PUBLIC property without the consent of the owner, which is when it is used to INJURE the rights of others. Any other type of conversion is THEFT. The U.S. Supreme Court describes that process of illegally CONVERTING property from PRIVATE to PUBLIC as follows. Notice that they only reference the “citizen” as being the object of regulation, which implies that those who are “nonresidents” and “transient foreigners” are beyond the control of those governments in whose territory they have not chosen a civil domicile:

*“The doctrine that each one must so use his own as not to injure his neighbor — sic utere tuo ut alienum non lēdas — is the rule by which every member of society must possess and enjoy his property; and all legislation essential to secure this common and equal enjoyment is a legitimate exercise of State authority. Except in cases where property may be destroyed to arrest a conflagration or the ravages of pestilence, or be taken under the pressure of an immediate and overwhelming necessity to prevent a public calamity, the power of the State over the property of the citizen [NOT EVERYONE, but only those who consent to become citizens by choosing a domicile] does not extend beyond such limits.”*  
[Munn v. Illinois, 94 U.S. 113 (1876)]

Below is a list of the more prevalent means abused by corrupt and covetous governments to illegally convert PRIVATE property to PUBLIC PROPERTY without the express consent of the owner. Many of these techniques are unrecognizable to the average American and therefore surreptitious, which is why they continue to be abused so regularly and chronically by public dis-servants:

1. Deceptively label statutory PRIVILEGES as RIGHTS.
2. Confuse STATUTORY citizenship with CONSTITUTIONAL citizenship.
3. Refuse to admit that the court you are litigating in is a FRANCHISE court that has no jurisdiction over non-franchisees or people who do not consent to the franchise.
4. Abuse the words “includes” and “including” to add anything they want to the definition of “person” or “individual” within the franchise. All such “persons” are public officers and not private human beings. See:  
<http://sedm.org/Forms/FormIndex.htm>  
Legal Deception, Propaganda, and Fraud, Form #05.014
5. Refuse to impose the burden of proof upon the government to show that you EXPRESSLY CONSENTED to convert PRIVATE property into PUBLIC property BEFORE they can claim jurisdiction over it.
6. Silently PRESUME that the property in question is PUBLIC property connected with the “trade or business” (public office per 26 U.S.C. §7701(a)(26)) franchise and force you to prove that it ISN’T by CHALLENGING false information returns filed against it, such as IRS Forms W-2, 1098, 1099, and K-1. See:  
<http://sedm.org/Forms/FormIndex.htm>  
Correcting Erroneous Information Returns, Form #04.001
7. Presume that the STATUTORY and CONSTITUTIONAL contexts for geographical words are the same. They are NOT, and in fact are mutually exclusive.
8. Presume that because you submitted an application for a franchise, that you:
  - 8.1. CONSENTED to the franchise and were not under duress.
  - 8.2. Were requesting a “benefit” and therefore agreed to the obligations associated with the “benefit”.

CALIFORNIA CIVIL CODE  
DIVISION 3. OBLIGATIONS  
PART 2. CONTRACTS  
CHAPTER 3. CONSENT  
[Section 1589](#)

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

- 8.3. Agree to accept the obligations associated with the status described on the application, such as “taxpayer”, “driver”, “spouse”.

If you want to prevent the above, reserve all your rights on the application, indicate duress, and define all terms on the form as NOT connected with any government or statutory law.



9. PRESUME that the OWNER has a civil statutory status that he or she consented to, such as:
- 9.1. "spouse" under the family code of your state, which is a franchise.
  - 9.2. "driver" under the vehicle code of your state, which is a franchise.
  - 9.3. "taxpayer" under the tax code of your state, which is a franchise.
10. PRESUME in the case of physical PROPERTY, that it is situated on federal territory to which the general and exclusive jurisdiction of the national government applies, even though it is not. This is primarily done by playing word games with geographical "words of art" such as "State" and "United States".
11. Refuse to satisfy the burden of proving that the owner of the property expressly consented in a manner that he/she prescribed to change the status of either himself or the property over which they claim a public interest.
12. Judges will interfere with attempts to introduce evidence in the proceeding that challenges any of the above presumptions.
13. Unlawfully compel the use of Social Security Numbers or Taxpayer Identification Numbers in violation of 42 U.S.C. §408(a)(8) in connection with specific property as a precondition of rendering a usually essential service. It will be illegally compelled because:
- 13.1. The party against whom it was compelled was not a statutory "Taxpayer" or "person" or "individual" or to whom a duty to furnish said number lawfully applies.
  - 13.2. The property was not located on territory subject to the territorial jurisdiction of that national government.
14. Use one franchise as a way to recruit franchisees under OTHER franchises that are completely unrelated. For instance, they will enact a vehicle code statute that allows for confiscation of REGISTERED vehicles only that are being operated by UNLICENSED drivers. That way, everyone who wants to protect their vehicle indirectly has to ALSO become a statutory "driver" using the public road ways for commercial activity and thus subject to regulation by the state, even though they in fact ARE NOT intending to do so.
15. Issue a license and then refuse to recognize the authority and ability in court of those possessing said license to act in an EXCLUSIVELY PRIVATE capacity. For instance:
- 15.1. They may have a contractor's license but they are NOT allowed to operate as OTHER than a licensed contractor...OR are NOT allowed to operate in an exclusively PRIVATE capacity.
  - 15.2. They may have a vehicle registration but are NOT allowed to remove it or NOT use it during times when they are NOT using the public roadways for hire, which is most of the time. In other words, the vehicle is the equivalent to "off duty" at some times. They allow police officers, who are PUBLIC officers, to be off duty, but not anyone who DOESN'T work for the government.
16. Issue or demand GOVERNMENT ID and then presume that the applicant is a statutory "resident" for ALL purposes, rather than JUST the specific reason the ID was issued. Since a "resident" is a public officer, in effect they are PRESUMING that you are a public officer 24 hours a day, 7 days a week, and that you HAVE to assume this capacity without pay or "benefit" and without the ability to quit. See:

[Why Domicile and Becoming a "Taxpayer" Require Your Consent](http://sedm.org/Forms/FormIndex.htm), Form #05.002, Section 13.6  
<http://sedm.org/Forms/FormIndex.htm>

What all of the above government abuses have in common is that they do one or more of the following:

1. Involve PRESUMPTIONS which violate due process of law and are therefore UNCONSTITUTIONAL. See:  
[Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction](http://sedm.org/Forms/FormIndex.htm), Form #05.017  
<http://sedm.org/Forms/FormIndex.htm>
2. Refuse to RECOGNIZE the existence of PRIVATE property or PRIVATE rights.
3. Violate the very purpose of establishing government to begin with, which is to PROTECT PRIVATE property by LEAVING IT ALONE and not regulating it or benefitting from its use or abuse until AFTER it has been used to injure the equal rights of anyone OTHER than the original owner.
4. Violate the Unconstitutional Conditions Doctrine of the U.S. Supreme Court.
5. Needlessly interfere with the ownership or control of otherwise PRIVATE property.
6. Often act upon property BEFORE it is used to institute an injury, instead of AFTER. Whenever the law acts to PREVENT future harm rather than CORRECT past harm, it requires the consent of the owner. The common law itself only provides remedies for PAST harm and cannot act on future conduct, except in the case of injunctions where PAST harm is already demonstrated.
7. Institute involuntary servitude against the owner in violation of the Thirteenth Amendment.
8. Represent an eminent domain over PRIVATE property in violation of the state constitution in most states.
9. Violate the takings clause of the Fifth Amendment to the United States Constitution.
10. Violate the maxim of law that the government has a duty to protect your right to NOT receive a "benefit" and NOT pay for "benefits" that you don't want or don't need.

*Invito beneficium non datur.*  
*No one is obliged to accept a benefit against his consent. Dig. 50, 17, 69. But if he does not dissent he will be considered as assenting. Vide Assent.*

*Quilibet potest renunciare juri pro se inducto.*  
*Any one may renounce a law introduced for his own benefit. To this rule there are some exceptions. See 1 Bouv. Inst. n. 83.*

[Bouvier's Maxims of Law, 1856,  
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]

It ought to be obvious to the reader that the basis for Socialism is public ownership of ALL property.

**“socialism n (1839) 1: any of various economic and political theories *advocating collective or governmental ownership and administration of the means of production and distribution of goods* 2 a: *a system of society or group living in which there is no private property* b: *a system or condition of society in which the means of production are owned and controlled by the state* 3: *a stage of society in Marxist theory transitional between capitalism and communism and distinguished by unequal distribution of goods and pay according to work done.*”**  
[Webster's Ninth New Collegiate Dictionary, 1983, ISBN 0-87779-510-X, p. 1118]

Any system of law that recognizes no absolute and inviolable constitutional boundary between PRIVATE property and PUBLIC property, or which regards ALL property as being subject to government taxation and/or regulation is a socialist or collectivist system. That socialist system is exhaustively described in the following:

<p><u><i>Socialism: The New American Civil Religion</i></u>, Form #05.016 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a></p>
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Below is how the U.S. Supreme Court characterizes efforts to violate the rules for converting PRIVATE property into PUBLIC property listed above and thereby STEAL PRIVATE property. The text below the following line up to the end of the section comes from the case indicated:

Munn v. Illinois, 94 U.S. 113 (1876)

The question presented, therefore, is one of the greatest importance, — whether it is within the competency of a State to fix the compensation which an individual may receive for the use of his own property in his private business, and for his services in connection with it.

[. . .]

The validity of the legislation was, among other grounds, assailed in the State court as being in conflict with that provision of the State Constitution which declares that no person shall be deprived of life, liberty, or property without due process of law, and with that provision of the Fourteenth Amendment of the Federal Constitution which imposes a similar restriction upon the action of the State. The State court held, in substance, that the constitutional provision was not violated so long as the owner was not deprived of the title and possession of his property; and that it did not deny to the legislature the power to make all needful rules and regulations respecting the use and enjoyment of the property, referring, in support of the position, to instances of its action in prescribing the interest on money, in establishing and regulating public ferries and public mills, and fixing the compensation in the shape of tolls, and in delegating power to municipal bodies to regulate the charges of hackmen and draymen, and the weight and price of bread. In this court the legislation was also assailed on the same ground, our jurisdiction arising upon the clause of the Fourteenth Amendment, ordaining that no State shall deprive any person of life, liberty, or property without due process of law. But it would seem from its opinion that the court holds that property loses something of its private character when employed in such a way as to be generally useful. The doctrine declared is that property "becomes clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large;" and from such clothing the right of the legislature is deduced to control the use of the property, and to determine the compensation which the owner may receive for it. **When Sir Matthew Hale, and the sages of the law in his day, spoke of property as affected by a public interest, and ceasing from that cause to be juris privati solely, that is, ceasing to be held merely in private right, they referred to property dedicated by the owner to public uses, or to property the use of which was granted by the government, or in connection with which special privileges were conferred. Unless the property was thus dedicated, or some right bestowed by the government was**

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1 held with the property, either by specific grant or by prescription of so long a time as to imply a grant originally, the  
2 property was not affected by any public interest so as to be taken out of the category of property held in private  
3 right. But it is not in any such sense that the terms "clothing property with a public interest" are used in this case. From the  
4 nature of the business under consideration — the storage of grain — which, in any sense in which the words can be used, is  
5 a private business, in which the public are interested only as they are interested in the storage of other products of the soil,  
6 or in articles of manufacture, it is clear that the court intended to declare that, whenever one devotes his property to a  
7 business which is useful to the public, — "affects the community at large," — the legislature can regulate the compensation  
8 which the owner may receive for its use, and for his own services in connection with it. "When, therefore," says the court,  
9 "one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that  
10 use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created."  
11 He may withdraw his grant by discontinuing the use; but, so long as he maintains the use, he must submit to the control."  
12 The building used by the defendants was for the storage of grain: in such storage, says the court, the public has an interest;  
13 therefore the defendants, by devoting the building to that storage, have granted the public an interest in that use, and must  
14 submit to have their compensation regulated by the legislature.

15 If this be sound law, if there be no protection, either in the principles upon which our republican government is  
16 founded, or in the prohibitions of the Constitution against such invasion of private rights, all property and all  
17 business in the State are held at the mercy of a majority of its legislature. The public has no greater interest in the use  
18 of buildings for the storage of grain than it has in the use of buildings for the residences of families, nor, indeed, anything  
19 like so great an interest; and, according to the doctrine announced, the legislature may fix the rent of all tenements used for  
20 residences, without reference to the cost of their erection. If the owner does not like the rates prescribed, he may cease  
21 renting his houses. He has granted to the public, says the court, an interest in the use of the buildings, and "he may  
22 withdraw his grant by discontinuing the use; but, so long as he maintains the use, he must submit to the control." The public  
23 is interested in the manufacture of cotton, woollen, and silken fabrics, in the construction of machinery, in the printing and  
24 publication of books and periodicals, and in the making of utensils of every variety, useful and ornamental; indeed, there is  
25 hardly an enterprise or business engaging the attention and labor of any considerable portion of the community, in  
26 which the public has not an interest in the sense in which that term is used by the court in its opinion; and the  
27 doctrine which allows the legislature to interfere with and regulate the charges which the owners of property thus  
28 employed shall make for its use, that is, the rates at which all these different kinds of business shall be carried on,  
29 has never before been asserted, so far as I am aware, by any judicial tribunal in the United States.

30 The doctrine of the State court, that no one is deprived of his property, within the meaning of the constitutional  
31 inhibition, so long as he retains its title and possession, and the doctrine of this court, that, whenever one's property  
32 is used in such a manner as to affect the community at large, it becomes by that fact clothed with a public interest,  
33 and ceases to be juris privati only, appear to me to destroy, for all useful purposes, the efficacy of the constitutional  
34 guaranty. All that is beneficial in property arises from its use, and the fruits of that use; and whatever deprives a  
35 person of them deprives him of all that is desirable or valuable in the title and possession. If the constitutional  
36 guaranty extends no further than to prevent a deprivation of title and possession, and allows a deprivation of use,  
37 and the fruits of that use, it does not merit the encomiums it has received. Unless I have misread the history of the  
38 provision now incorporated into all our State constitutions, and by the Fifth and Fourteenth Amendments into our Federal  
39 Constitution, and have misunderstood the interpretation it has received, it is not thus limited in its scope, and thus impotent  
40 for good. It has a much more extended operation than either court, State, or Federal has given to it. The provision, it  
41 is to be observed, places property under the same protection as life and liberty. Except by due process of law, no  
42 State can deprive any person of either. The provision has been supposed to secure to every individual the essential  
43 conditions for the pursuit of happiness; and for that reason has not been heretofore, and should never be, construed  
44 in any narrow or restricted sense.

45 No State "shall deprive any person of life, liberty, or property without due process of law," says the Fourteenth Amendment  
46 to the Constitution. By the term "life," as here used, something more is meant than mere animal existence. The inhibition  
47 against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the  
48 mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ  
49 of the body through which the soul communicates with the outer world. The deprivation not only of life, but of whatever  
50 God has given to everyone with life, for its growth and enjoyment, is prohibited by the provision in question, if its efficacy  
51 be not frittered away by judicial decision.

52 By the term "liberty," as used in the provision, something more is meant than mere freedom from physical restraint or the  
53 bounds of a prison. It means freedom to go where one may choose, and to act in such manner, not inconsistent with the

equal rights of others, as his judgment may dictate for the promotion of his happiness; that is, to pursue such callings and avocations as may be most suitable to develop his capacities, and give to them their highest enjoyment.

**The same liberal construction which is required for the protection of life and liberty, in all particulars in which life and liberty are of any value, should be applied to the protection of private property. If the legislature of a State, under pretence of providing for the public good, or for any other reason, can determine, against the consent of the owner, the uses to which private property shall be devoted, or the prices which the owner shall receive for its uses, it can deprive him of the property as completely as by a special act for its confiscation or destruction. If, for instance, the owner is prohibited from using his building for the purposes for which it was designed, it is of little consequence that he is permitted to retain the title and possession; or, if he is compelled to take as compensation for its use less than the expenses to which he is subjected by its ownership, he is, for all practical purposes, deprived of the property, as effectually as if the legislature had ordered his forcible dispossession. If it be admitted that the legislature has any control over the compensation, the extent of that compensation becomes a mere matter of legislative discretion. The amount fixed will operate as a partial destruction of the value of the property, if it fall below the amount which the owner would obtain by contract, and, practically, as a complete destruction, if it be less than the cost of retaining its possession. There is, indeed, no protection of any value under the constitutional provision, which does not extend to the use and income of the property, as well as to its title and possession.**

This court has heretofore held in many instances that a constitutional provision intended for the protection of rights of private property should be liberally construed. It has so held in the numerous cases where it has been called upon to give effect to the provision prohibiting the States from legislation impairing the obligation of contracts; the provision being construed to secure from direct attack not only the contract itself, but all the essential incidents which give it value and enable its owner to enforce it. Thus, in *Bronson v. Kinzie*, reported in the 1st of Howard, it was held that an act of the legislature of Illinois, giving to a mortgagor twelve months within which to redeem his mortgaged property from a judicial sale, and prohibiting its sale for less than two-thirds of its appraised value, was void as applied to mortgages executed prior to its passage. It was contended, in support of the act, that it affected only the remedy of the mortgagee, and did not impair the contract; but the court replied that there was no substantial difference between a retrospective law declaring a particular contract to be abrogated and void, and one which took away all remedy to enforce it, or encumbered the remedy with conditions that rendered it useless or impracticable to pursue it. And, referring to the constitutional provision, the court said, speaking through Mr. Chief Justice Taney, that

*"it would be unjust to the memory of the distinguished men who framed it, to suppose that it was designed to protect a mere barren and abstract right, without any practical operation upon the business of life. It was undoubtedly adopted as a part of the Constitution for a great and useful purpose. It was to maintain the integrity of contracts, and to secure their faithful execution throughout this Union, by placing them under the protection of the Constitution of the United States. And it would but ill become this court, under any circumstances, to depart from the plain meaning of the words used, and to sanction a distinction between the right and the remedy, which would render this provision illusive and nugatory, mere words of form, affording no protection and producing no practical result."*

And in *Pumpelly v. Green Bay Company*, 13 Wall. 177, the language of the court is equally emphatic. That case arose in Wisconsin, the constitution of which declares, like the constitutions of nearly all the States, that private property shall not be taken for public use without just compensation; and this court held that the flooding of one's land by a dam constructed across a river under a law of the State was a taking within the prohibition, and required compensation to be made to the owner of the land thus flooded. The court, speaking through Mr. Justice Miller, said: —

*"It would be a very curious and unsatisfactory result, if, in construing a provision of constitutional law, always understood to have been adopted for protection and security to the rights of the individual as against the government, and which has received the commendation of jurists, statesmen, and commentators, as placing the just principles of the common law on that subject beyond the power of ordinary legislation to change or control them, it shall be held that, if the government refrains from the absolute conversion of real property to the uses of the public, it can destroy its value entirely, can inflict irreparable and permanent injury to any extent, can, in effect, subject it to total destruction without making any compensation, because, in the narrowest sense of the word, it is not taken for the public use. Such a construction would pervert the constitutional provision into a restriction on the rights of the citizen, as those rights stood at the common law, instead of the government, and make it an authority for invasion of private right under the pretext of the public good, which had no warrant in the laws or practices of our ancestors."*

**The views expressed in these citations, applied to this case, would render the constitutional provision invoked by the defendants effectual to protect them in the uses, income, and revenues of their property, as well as in its title and possession. The construction actually given by the State court and by this court makes the provision, in the language**



1 **of Taney, a protection to "a mere barren and abstract right, without any practical operation upon the business of**  
2 **life," and renders it "illusive and nugatory, mere words of form, affording no protection and producing no practical**  
3 **result."**

4 The power of the State over the property of the citizen under the constitutional guaranty is well defined. The State may take  
5 his property for public uses, upon just compensation being made therefor. It may take a portion of his property by way of  
6 taxation for the support of the government. It may control the use and possession of his property, so far as may be necessary  
7 for the protection of the rights of others, and to secure to them the equal use and enjoyment of their property. **The doctrine**  
8 **that each one must so use his own as not to injure his neighbor — sic utere tuo ut alienum non lædas — is the rule**  
9 **by which every member of society must possess and enjoy his property; and all legislation essential to secure this**  
10 **common and equal enjoyment is a legitimate exercise of State authority. Except in cases where property may be**  
11 **destroyed to arrest a conflagration or the ravages of pestilence, or be taken under the pressure of an immediate and**  
12 **overwhelming necessity to prevent a public calamity, the power of the State over the property of the citizen does not**  
13 **extend beyond such limits.**

14 It is true that the legislation which secures to all protection in their rights, and the equal use and enjoyment of their  
15 property, embraces an almost infinite variety of subjects. Whatever affects the peace, good order, morals, and health of the  
16 community, comes within its scope; and every one must use and enjoy his property subject to the restrictions which such  
17 legislation imposes. What is termed the police power of the State, which, from the language often used respecting it, one  
18 would suppose to be an undefined and irresponsible element in government, can only interfere with the conduct of  
19 individuals in their intercourse with each other, and in the use of their property, so far as may be required to secure these  
20 objects. **The compensation which the owners of property, not having any special rights or privileges from the**  
21 **government in connection with it, may demand for its use, or for their own services in union with it, forms no**  
22 **element of consideration in prescribing regulations for that purpose.** If one construct a building in a city, the State, or  
23 the municipality exercising a delegated power from the State, may require its walls to be of sufficient thickness for the uses  
24 intended; it may forbid the employment of inflammable materials in its construction, so as not to endanger the safety of his  
25 neighbors; if designed as a theatre, church, or public hall, it may prescribe ample means of egress, so as to afford facility for  
26 escape in case of accident; it may forbid the storage in it of powder, nitro-glycerine, or other explosive material; it may  
27 require its occupants daily to remove decayed vegetable and animal matter, which would otherwise accumulate and  
28 engender disease; it may exclude from it all occupations and business calculated to disturb the neighborhood or infect the  
29 air. Indeed, there is no end of regulations with respect to the use of property which may not be legitimately prescribed,  
30 having for their object the peace, good order, safety, and health of the community, thus securing to all the equal enjoyment  
31 of their property; but in establishing these regulations it is evident that compensation to the owner for the use of his  
32 property, or for his services in union with it, is not a matter of any importance: whether it be one sum or another does not  
33 affect the regulation, either in respect to its utility or mode of enforcement. One may go, in like manner, through the whole  
34 round of regulations authorized by legislation, State or municipal, under what is termed the police power, and in no instance  
35 will he find that the compensation of the owner for the use of his property has any influence in establishing them. **It is only**  
36 **where some right or privilege is conferred by the government or municipality upon the owner, which he can use in**  
37 **connection with his property, or by means of which the use of his property is rendered more valuable to him, or he**  
38 **thereby enjoys an advantage over others, that the compensation to be received by him becomes a legitimate matter**  
39 **of regulation. Submission to the regulation of compensation in such cases is an implied condition of the grant, and**  
40 **the State, in exercising its power of prescribing the compensation, only determines the conditions upon which its**  
41 **concession shall be enjoyed. When the privilege ends, the power of regulation ceases.**

42 Jurists and writers on public law find authority for the exercise of this police power of the State and the numerous  
43 regulations which it prescribes in the doctrine already stated, that everyone must use and enjoy his property consistently  
44 with the rights of others, and the equal use and enjoyment by them of their property. "The police power of the State," says  
45 the Supreme Court of Vermont, "extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and  
46 the protection of all property in the State. According to the maxim, sic utere tuo ut alienum non lædas, which, being of  
47 universal application, it must, of course, be within the range of legislative action to define the mode and manner in which  
48 every one may so use his own as not to injure others." *Thorpe v. Rutland & Burlington Railroad Co.*, 27 Vt. 149. "We think  
49 it a settled principle growing out of the nature of well-ordered civil society," says the Supreme Court of Massachusetts,  
50 "that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that his  
51 use of it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor  
52 injurious to the rights of the community." *Commonwealth v. Alger*, 7 Cush. 84. In his Commentaries, after speaking of the  
53 protection afforded by the Constitution to private property, Chancellor Kent says: —



1 *"But though property be thus protected, it is still to be understood that the law-giver has the right to prescribe*  
2 *the mode and manner of using it, so far as may be necessary to prevent the abuse of the right, to the injury or*  
3 *annoyance of others, or of the public. The government may, by general regulations, interdict such uses of*  
4 *property as would create nuisances and become dangerous to the lives, or health, or peace, or comfort of the*  
5 *citizens. Unwholesome trades, slaughter-houses, operations offensive to the senses, the deposit of powder, the*  
6 *application of steam-power to propel cars, the building with combustible materials, and the burial of the dead,*  
7 *may all be interdicted by law, in the-midst of dense masses of population, 148\*148 on the general and rational*  
8 *principle that every person ought so to use his property as not to injure his neighbors, and that private interests*  
9 *must be made subservient to the general interests of the community. 2 Kent, 340.*

10 The Italics in these citations are mine. The citations show what I have already stated to be the case, that the regulations  
11 which the State, in the exercise of its police power, authorizes with respect to the use of property are entirely independent of  
12 any question of compensation for such use, or for the services of the owner in connection with it.

13 There is nothing in the character of the business of the defendants as warehousemen which called for the interference  
14 complained of in this case. Their buildings are not nuisances; their occupation of receiving and storing grain infringes upon  
15 no rights of others, disturbs no neighborhood, infects not the air, and in no respect prevents others from using and enjoying  
16 their property as to them may seem best. **The legislation in question is nothing less than a bold assertion of absolute**  
17 **power by the State to control at its discretion the property and business of the citizen, and fix the compensation he**  
18 **shall receive. The will of the legislature is made the condition upon which the owner shall receive the fruits of his**  
19 **property and the just reward of his labor, industry, and enterprise. "That government," says Story, "can scarcely**  
20 **be deemed to be free where the rights of property are left solely dependent upon the will of a legislative body**  
21 **without any restraint. The fundamental maxims of a free government seem to require that the rights of personal**  
22 **liberty and private property should be held sacred."** Wilkeson v. Leland, 2 Pet. 657. The decision of the court in this  
23 **case gives unrestrained license to legislative will.**

24 The several instances mentioned by counsel in the argument and by the court in its opinion, in which legislation has fixed  
25 the compensation which parties may receive for the use of their property and services, do not militate against the views I  
26 have expressed of the power of the State over the property of the citizen. They were mostly cases of public ferries, bridges,  
27 and turnpikes, of wharfingers, hackmen, and draymen, and of interest on money. In all these cases, except that of interest on  
28 money, which I shall presently notice there was some special privilege granted by the State or municipality; and no one, I  
29 suppose, has ever contended that the State had not a right to prescribe the conditions upon which such privilege should be  
30 enjoyed. **The State in such cases exercises no greater right than an individual may exercise over the use of his own**  
31 **property when leased or loaned to others. The conditions upon which the privilege shall be enjoyed being stated or**  
32 **implied in the legislation authorizing its grant, no right is, of course, impaired by their enforcement. The recipient of**  
33 **the privilege, in effect, stipulates to comply with the conditions. It matters not how limited the privilege conferred,**  
34 **its acceptance implies an assent to the regulation of its use and the compensation for it.** The privilege which the  
35 hackman and drayman have to the use of stands on the public streets, not allowed to the ordinary coachman or laborer with  
36 teams, constitutes a sufficient warrant for the regulation of their fares. In the case of the warehousemen of Chicago, no right  
37 or privilege is conferred by the government upon them; and hence no assent of theirs can be alleged to justify any  
38 interference with their charges for the use of their property.

39 The quotations from the writings of Sir Matthew Hale, so far from supporting the positions of the court, do not recognize  
40 the interference of the government, even to the extent which I have admitted to be legitimate. They state merely that the  
41 franchise of a public ferry belongs to the king, and cannot be used by the subject except by license from him, or  
42 prescription time out of mind; and that when the subject has a public wharf by license from the king, or from having  
43 dedicated his private wharf to the public, as in the case of a street opened by him through his own land, he must allow the  
44 use of the wharf for reasonable and moderate charges. Thus, in the first quotation which is taken from his treatise De Jure  
45 Maris, Hale says that the king has

46 *"a right of franchise or privilege, that no man may set up a common ferry for all passengers without a*  
47 *prescription time out of mind or a charter from the king. He may make a ferry for his own use or the use of his*  
48 *family, but not for the common use of all the king's subjects passing that way; because it doth in consequent*  
49 *tend to a common charge, and is become a thing of public interest and use, and every man for his passage pays*  
50 *a toll, which is a common charge, and every ferry ought to be under a public regulation, viz., that it give*  
51 *attendance at due times, keep a boat in due order, and take but reasonable toll; for if he fail in these he is*  
52 *finable."*

Of course, one who obtains a license from the king to establish a public ferry, at which "every man for his passage pays a toll," must take it on condition that he charge only reasonable toll, and, indeed, subject to such regulations as the king may prescribe.

In the second quotation, which is taken from his treatise *De Portibus Maris*, Hale says: —

*"A man, for his own private advantage, may, in a port or town, set up a wharf or crane, and may take what rates he and his customers can agree for cranage, wharfage, housellage, pesage; for he doth no more than is lawful for any man to do, viz., makes the most of his own. If the king or subject have a public wharf, unto which all persons that come to that port must come and unlade or lade their goods as for the purpose, because they are the wharves only licensed by the king, or because there is no other wharf in that port, as it may fall out where a port is newly erected, in that case there cannot be taken arbitrary and excessive duties for cranage, wharfage, pesage, &c.; neither can they be enhanced to an immoderate rate, but the duties must be reasonable and moderate, though settled by the king's license or charter. For now the wharf and crane and other conveniences are affected with a public interest, and they cease to be juris privati only; as if a man set out a street in new building on his own land, it is now no longer bare private interest, but is affected by the public interest."*

The purport of which is, that if one have a public wharf, by license from the government or his own dedication, he must exact only reasonable compensation for its use. By its dedication to public use, a wharf is as much brought under the common-law rule of subjection to reasonable charges as it would be if originally established or licensed by the crown. All property dedicated to public use by an individual owner, as in the case of land for a park or street, falls at once, by force of the dedication, under the law governing property appropriated by the government for similar purposes.

I do not doubt the justice of the encomiums passed upon Sir Matthew Hale as a learned jurist of his day; but I am unable to perceive the pertinency of his observations upon public ferries and public wharves, found in his treatises on "The Rights of the Sea" and on "The Ports of the Sea," to the questions presented by the warehousing law of Illinois, undertaking to regulate the compensation received by the owners of private property, when that property is used for private purposes.

The principal authority cited in support of the ruling of the court is that of *Alnutt v. Inglis*, decided by the King's Bench, and reported in 12 East. But that case, so far from sustaining the ruling, establishes, in my judgment, the doctrine that everyone has a right to charge for his property, or for its use, whatever he pleases, unless he enjoys in connection with it some right or privilege from the government not accorded to others; and even then it only decides what is above stated in the quotations from Sir Matthew Hale, that he must submit, so long as he retains the right or privilege, to reasonable rates. In that case, the London Dock Company, under certain acts of Parliament, possessed the exclusive right of receiving imported goods into their warehouses before the duties were paid; and the question was whether the company was bound to receive them for a reasonable reward, or whether it could arbitrarily fix its compensation. In deciding the case, the Chief Justice, Lord Ellenborough, said: —

*"There is no doubt that the general principle is favored, both in law and justice, that every man may fix what price he pleases upon his own property, or the use of it; but if, for a particular purpose, the public have a right to resort to his premises and make use of them, and he have a monopoly in them for that purpose, if he will take the benefit of that monopoly, he must, as an equivalent, perform the duty attached to it on reasonable terms."*

And, coming to the conclusion that the company's warehouses were invested with "the monopoly of a public privilege," he held that by law the company must confine itself to take reasonable rates; and added, that if the crown should thereafter think it advisable to extend the privilege more generally to other persons and places, so that the public would not be restrained from exercising a choice of warehouses for the purpose, the company might be enfranchised from the restriction which attached to a monopoly; but, so long as its warehouses were the only places which could be resorted to for that purpose, the company was bound to let the trade have the use of them for a reasonable hire and reward. The other judges of the court placed their concurrence in the decision upon the ground that the company possessed a legal monopoly of the business, having the only warehouses where goods imported could be lawfully received without previous payment of the duties. From this case it appears that it is only where some privilege in the bestowal of the government is enjoyed in connection with the property, that it is affected with a public interest in any proper sense of the terms. It is the public privilege conferred with the use of the property which creates the public interest in it.

In the case decided by the Supreme Court of Alabama, where a power granted to the city of Mobile to license bakers, and to regulate the weight and price of bread, was sustained so far as regulating the weight of the bread was concerned, no question was made as to the right to regulate the price. 3 Ala. 137. There is no doubt of the competency of the State to prescribe the weight of a loaf of bread, as it may declare what weight shall constitute a pound or a ton. But I deny the power

of any legislature under our government to fix the price which one shall receive for his property of any kind. If the power can be exercised as to one article, it may as to all articles, and the prices of everything, from a calico gown to a city mansion, may be the subject of legislative direction.

**Other instances of a similar character may, no doubt, be cited of attempted legislative interference with the rights of property.** The act of Congress of 1820, mentioned by the court, is one of them. There Congress undertook to confer upon the city of Washington power to regulate the rates of wharfage at private wharves, and the fees for sweeping chimneys. Until some authoritative adjudication is had upon these and similar provisions, I must adhere, notwithstanding the legislation, to my opinion, that those who own property have the right to fix the compensation at which they will allow its use, and that those who control services have a right to fix the compensation at which they will be rendered. The chimney-sweeps may, I think, safely claim all the compensation which they can obtain by bargain for their work. In the absence of any contract for property or services, the law allows only a reasonable price or compensation; but what is a reasonable price in any case will depend upon a variety of considerations, and is not a matter for legislative determination.

**The practice of regulating by legislation the interest receivable for the use of money, when considered with reference to its origin, is only the assertion of a right of the government to control the extent to which a privilege granted by it may be exercised and enjoyed. By the ancient common law it was unlawful to take any money for the use of money: all who did so were called usurers, a term of great reproach, and were exposed to the censure of the church; and if, after the death of a person, it was discovered that he had been a usurer whilst living, his chattels were forfeited to the king, and his lands escheated to the lord of the fee. No action could be maintained on any promise to pay for the use of money, because of the unlawfulness of the contract. Whilst the common law thus condemned all usury, Parliament interfered, and made it lawful to take a limited amount of interest. It was not upon the theory that the legislature could arbitrarily fix the compensation which one could receive for the use of property, which, by the general law, was the subject of hire for compensation, that Parliament acted, but in order to confer a privilege which the common law denied. The reasons which led to this legislation originally have long since ceased to exist; and if the legislation is still persisted in, it is because a long acquiescence in the exercise of a power, especially when it was rightfully assumed in the first instance, is generally received as sufficient evidence of its continued lawfulness. 10 Bac. Abr. 264.\*]**

There were also recognized in England, by the ancient common law, certain privileges as belonging to the lord of the manor, which grew out of the state of the country, the condition of the people, and the relation existing between him and his tenants under the feudal system. Among these was the right of the lord to compel all the tenants within his manor to grind their corn at his mill. No one, therefore, could set up a mill except by his license, or by the license of the crown, unless he claimed the right by prescription, which presupposed a grant from the lord or crown, and, of course, with such license went the right to regulate the tolls to be received. Woolrych on the Law of Waters, c. 6, of Mills. Hence originated the doctrine which at one time obtained generally in this country, that there could be no mill to grind corn for the public, without a grant or license from the public authorities. It is still, I believe, asserted in some States. This doctrine being recognized, all the rest followed. The right to control the toll accompanied the right to control the establishment of the mill.

It requires no comment to point out the radical differences between the cases of public mills and interest on money, and that of the warehouses in Chicago. No prerogative or privilege of the crown to establish warehouses was ever asserted at the common law. **The business of a warehouseman was, at common law, a private business and is so in its nature. It has no special privileges connected with it, nor did the law ever extend to it any greater protection than it extended to all other private business. No reason can be assigned to justify legislation interfering with the legitimate profits of that business, that would not equally justify an intermeddling with the business of every man in the community, so soon, at least, as his business became generally useful.**

### **3.12 The public office is a “fiction of law”**

The fictitious public office and “trade or business” to which all the government’s enforcement rights attach is called a “fiction of law” by some judges. Here is the definition:

*“Fiction of law. An assumption or supposition of law that something which is or may be false is true, or that a state of facts exists which has never really taken place. An assumption [PRESUMPTION] for purposes of justice, of a fact that does not or may not exist. A rule of law which assumes as true, and will not allow to be disproved, something which is false, but not impossible. Ryan v. Motor Credit Co., 30 N.J.Eq. 531, 23 A.2d. 607, 621. These assumptions are of an innocent or even beneficial character, and are made for the advancement of the ends of justice. They secure this end chiefly by the extension of procedure from cases to which it is applicable to other cases to which it is not strictly applicable, the ground of inapplicability being some difference of an immaterial character. See also Legal fiction.”*  
[Black’s Law Dictionary, Sixth Edition, p. 623]

The key elements of all fictions of law from the above are:

1. A PRESUMPTION of the existence or truth of an otherwise nonexistent thing.
2. The presumptions are of an INNOCENT or BENEFICIAL character.
3. The presumptions are made for the advancement of the ends of justice.
4. All of the above goals are satisfied against BOTH parties to the dispute, not just the government. Otherwise the constitutional requirement for equal protection and equal treatment has been transgressed.

The fictitious public office that forms the heart of the modern SCAM income tax clearly does not satisfy the elements for being a “fiction of law” because:

1. All presumptions that violate due process of law or result in an injury to EITHER party affected by the presumption are unconstitutional. See:

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

2. The presumption does not benefit BOTH parties to a dispute that involves it. It ONLY benefits the government at the expense of innocent nontaxpayers and EXCLUSIVELY PRIVATE parties.
3. The presumption of the existence of the BOGUS office does NOT advance justice for BOTH parties to any dispute involving it. The legal definition of justice is the RIGHT TO BE LEFT ALONE. The presumption of the existence of the BOGUS office ensures that those who do not want to volunteer for the office but who are the subject of FALSE information returns are NEVER left alone and are continually harassed illegally by the IRS. Here is the legal definition of “justice” so you can see for yourself:

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

**Justice, as a moral habit, is that tendency of the will and mode of conduct which refrains from disturbing the lives and interests of others [INCLUDING us], and, as far as possible, hinders such interference on the part of others.** This virtue springs from the individual's respect for his fellows as ends in themselves and as his co equals. The different spheres of interests may be roughly classified as follows: body and life; the family, or the extended individual life; property, or the totality of the instruments of action; honor, or the ideal existence; and finally freedom, or the possibility of fashioning one's life as an end in itself. The law defends these different spheres, thus giving rise to a corresponding number of spheres of rights, each being protected by a prohibition. . . . **To violate the rights, to interfere with the interests of others, is injustice. All injustice is ultimately directed against the life of the neighbor;** it is an open avowal that the latter is not an end in itself, having the same value as the individual's own life. The general formula of the duty of justice may therefore be stated as follows: Do no wrong yourself, and permit no wrong to be done, so far as lies in your power; or, expressed positively: Respect and protect the right.”  
[[Readings on the History and System of the Common Law, Second Edition, Roscoe Pound, 1925, p. 2](#)]

Therefore it is clearly a CRUEL FRAUD for any judge to justify his PRESUMPTION of the existence of the BOGUS public office that is the subject of the excise tax by calling it a “fiction of law”.

If you want to see an example of WHY this fiction of law was created as a way to usurp jurisdiction, read the following U.S. Supreme Court cite:

*“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, 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 marshal, 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/)

The reason for the controversy in the above case was that the bribe occurred on state land by a nonresident domiciled in the state, and therefore that federal law did not apply. In the above case, the court admitted that a "fiction" was resorted to usurp jurisdiction because no legal authority could be found. The fact that the defendant was in custody created the jurisdiction. It didn't exist before they KIDNAPPED him. Notice also that they mention an implied "compact" or contract related to the office being exercised, and that THAT compact was the source of their jurisdiction over the officer who was bribed. This is the SAME contract to which all those who engage in a statutory "trade or business" are party to.

### 3.13 "Public official" v. "Public office"

There is much confusion over what a "public office" is within the federal government, and its proper relationship to the term "public official". This confusion was very deliberately created and maintained by the government because they don't want you to know the following:

1. That the federal income tax described in Internal Revenue Code, Subtitle A is an excise tax or "privilege tax" upon a voluntary federal franchise called a "public office".
2. What constitutes such a "public office" so that you can avoid the franchise and "unvolunteer".

You can search every IRS publication as we have and you will NEVER see a definition of what a constitutes a "public office", because they don't want you to unvolunteer and become a "nontaxpayer". Therefore, you will have to read and study the law as we have to deduce the full extent of the deception before you can regain your sovereignty and liberty and "fire" the government and your covetous "public servants" as your protector.

Those engaged in a "public office", for instance, need not ALSO be described as "public officials". In fact, "public officials" are an elected or appointed subset of all "public offices". We must remember that the tax described in Subtitle A of the Internal Revenue Code is a tax upon a federal franchise called a "public office", and NOT upon "public officials". This is also confirmed by 26 U.S.C. §6331(a), which describes who the real audience for the income tax is:

[TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > § 6331](#)  
[§6331. Levy and distraint](#)

(a) Authority of Secretary

*If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.*

Note the use of the word "agency or instrumentality". This is an admission that the tax is not JUST upon "employees" or "public officials", but upon all "public offices". Every instrumentality of the federal government, in fact, constitutes a "public office". We will therefore spend the rest of this section describing exactly what constitutes a "public office", and this description is extracted from section 10 of the following pamphlet:

[The "Trade or Business" Scam, Form #05.001](#)  
<http://sedm.org/Forms/FormIndex.htm>

The subject of exactly what constitutes a "public office" within the meaning described in 26 U.S.C. §7701(a)(26) is not defined in any IRS publication we could find. The reason is quite clear: the "trade or business" scam is the Achilles heel of the IRS fraud and both the IRS and the Courts are loath to even talk about it because there is nothing they can defend themselves with other than unsubstantiated presumption created by the abuse of the word "includes" and certain key "words of art". Therefore, those who want to know how they could lawfully be classified as a "public office" will have to answer that question completely on their own, which is what we will attempt to do in this section.

We begin our search with a definition of "public office" from Black's Dictionary:

***Why Your Government is Either a Thief or You Are a "Public Officer" for Income Tax Purposes***  
Copyright Sovereignty Education and Defense Ministry, <http://sedm.org>  
Form 05.008, Rev. 12-10-2020

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EXHIBIT: \_\_\_\_\_



Public office. The right, authority, and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of government for the benefit of the public. *Walker v. Rich*, 79 Cal.App. 139, 249 P. 56, 58. An agency for the state, the duties of which involve in their performance the exercise of some portion of the sovereign power, either great or small. *Yaselli v. Goff*, C.C.A., 12 F.2d. 396, 403, 56 A.L.R. 1239; *Lacey v. State*, 13 Ala.App. 212, 68 So. 706, 710; *Curtin v. State*, 61 Cal.App. 377, 214 P. 1030, 1035; *Shelmadine v. City of Elkhart*, 75 Ind.App. 493, 129 N.E. 878. *State ex rel. Colorado River Commission v. Frohmiller*, 46 Ariz. 413, 52 P.2d. 483, 486. Where, by virtue of law, a person is clothed, not as an incidental or transient authority, but for such time as denotes duration and continuance, with Independent power to control the property of the public, or with public functions to be exercised in the supposed interest of the people, the service to be compensated by a stated yearly salary, and the occupant having a designation or title, the position so created is a public office. *State v. Brennan*, 49 Ohio.St. 33, 29 N.E. 593. [Black's Law Dictionary, Fourth Edition, p. 1235]

Black's Law Dictionary Sixth Edition further clarifies the meaning of a "public office" below:

"Essential characteristics of a 'public office' are:

- (1) Authority conferred by law,
- (2) Fixed tenure of office, and
- (3) Power to exercise some of the sovereign functions of government.

Key element of such test is that "officer is carrying out a sovereign function. *Spring v. Constantino*, 168 Conn. 563, 362 A.2d. 871, 875. Essential elements to establish public position as 'public office' are:

Position must be created by Constitution, legislature, or through authority conferred by legislature.  
Portion of sovereign power of government must be delegated to position,  
Duties and powers must be defined, directly or implied, by legislature or through legislative authority.  
Duties must be performed independently without control of superior power other than law, and  
Position must have some permanency."

[Black's Law Dictionary, Sixth Edition, p. 1230]

American Jurisprudence Legal Encyclopedia further clarifies what a "public office" is as follows:

"As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer.<sup>23</sup> Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government, and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by law upon trustees relative to the making of personal financial gain from a discharge of their trusts.<sup>24</sup> That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves,<sup>25</sup> and owes a fiduciary duty to the public.<sup>26</sup> It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual.<sup>27</sup> Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken public confidence and undermine the sense of security for individual rights is against public policy.<sup>28</sup>"

[63C American Jurisprudence 2d, Public Officers and Employees, §247 (1999)]

Based on the foregoing, one cannot be a "public officer" if:

1. There is not a statute or constitutional authority that specifically creates the office. All "public offices" can only be created through legislative authority.

<sup>23</sup> *State ex rel. Nagle v. Sullivan*, 98 Mont. 425, 40 P.2d. 995, 99 A.L.R. 321; *Jersey City v. Hague*, 18 N.J. 584, 115 A.2d. 8.

<sup>24</sup> *Georgia Dep't of Human Resources v. Sistrunk*, 249 Ga. 543, 291 S.E.2d. 524. A public official is held in public trust. *Madlener v. Finley* (1st Dist), 161 Ill.App.3d. 796, 113 Ill.Dec. 712, 515 N.E.2d. 697, app gr 117 Ill.Dec. 226, 520 N.E.2d. 387 and revd on other grounds 128 Ill.2d. 147, 131 Ill.Dec. 145, 538 N.E.2d. 520.

<sup>25</sup> *Chicago Park Dist. v. Kenroy, Inc.*, 78 Ill.2d. 555, 37 Ill.Dec. 291, 402 N.E.2d. 181, appeal after remand (1st Dist) 107 Ill.App.3d. 222, 63 Ill.Dec. 134, 437 N.E.2d. 783.

<sup>26</sup> *United States v. Holzer* (CA7 Ill), 816 F.2d. 304 and vacated, remanded on other grounds 484 U.S. 807, 98 L Ed 2d 18, 108 S Ct 53, on remand (CA7 Ill) 840 F.2d. 1343, cert den 486 U.S. 1035, 100 L Ed 2d 608, 108 S Ct 2022 and (criticized on other grounds by *United States v. Osser* (CA3 Pa) 864 F.2d. 1056) and (superseded by statute on other grounds as stated in *United States v. Little* (CA5 Miss), 889 F.2d. 1367) and (among conflicting authorities on other grounds noted in *United States v. Boylan* (CA1 Mass), 898 F.2d. 230, 29 Fed.Rules.Evid.Serv. 1223).

<sup>27</sup> *Chicago ex rel. Cohen v. Keane*, 64 Ill.2d. 559, 2 Ill.Dec. 285, 357 N.E.2d. 452, later proceeding (1st Dist) 105 Ill.App.3d. 298, 61 Ill.Dec. 172, 434 N.E.2d. 325.

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

2. Their duties are not specifically and exactly enumerated in some Act of Congress.
3. They have a boss or immediate supervisor. All duties must be performed INDEPENDENTLY.
4. They have anyone but the law and the courts to immediately supervise their activities.
5. They are serving as a “public officer” in a location NOT specifically authorized by the law. The law must create the office and specify exactly where it is to be exercised. 4 U.S.C. §72 says ALL public offices of the federal and national government MUST be exercised ONLY in the District of Columbia and not elsewhere, except as expressly provided by law.
6. Their position does not carry with it some kind of fiduciary duty to the “public” which in turn is documented in and enforced by enacted law itself.
7. The beneficiary of their fiduciary duty is other than the “public”. Public service is a public trust, and the beneficiary of the trust is the public at large and not any one specific individual or group of individuals. See 5 C.F.R. §2635.101(b) and Executive Order 12731.

All public officers must take an oath. The oath, in fact, is what creates the fiduciary duty that attaches to the office. This is confirmed by the definition of "public official" in Black's Law Dictionary:

*A person who, upon being issued a commission, taking required oath, enters upon, for a fixed tenure, a position called an office where he or she exercises in his or her own right some of the attributes of sovereign he or she serves for benefit of public. *Macy v. Heverin*, 44 Md.App. 358, 408 A.2d. 1067, 1069. The holder of a public office though not all persons in public employment are public officials, because public official's position requires the exercise of some portion of the sovereign power, whether great or small. *Town of Arlington v. Bds. of Conciliation and Arbitration, Mass.*, 352 N.E.2d. 914.  
[Black's Law Dictionary, Sixth Edition, p. 1230]*

The oath for United States federal and state officials was prescribed in the very first enactment of Congress on March 4, 1789 as follows:

*Statutes at Large, March 4, 1789  
1 Stat. 23-24*

*SEC. 1. Be it enacted by the Senate and [House of] Representatives of the United States of America in Congress assembled, That the oath or affirmation required by the sixth article of the Constitution of the United States, shall be administered in the form following, to wit : " I, A, B. do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." The said oath or affirmation shall be administered within three days after the passing of this act, by any one member of the Senate, to the President of the Senate, and by him to all the members and to the secretary; and by the Speaker of the House of Representatives, to all the members who have not taken a similar oath, by virtue of a particular resolution of the said House, and to the clerk; and in case of the absence of any member from the service of either House, at the time prescribed for taking the said oath or affirmation, the same shall be administered to such member, when he shall appear to take his seat.*

*SEC. 2. And be it further enacted, That at the first session of Congress after every general election of Representatives, the oath or affirmation aforesaid, shall be administered by any one member of the House of Representatives to the Speaker; and by him to all the members present, and to the clerk, previous to entering on any other business; and to the members who shall afterwards appear, previous to taking their seats. The President of the Senate for the time being, shall also administer the said oath or affirmation to each Senator who shall hereafter be elected, previous to his taking his seat: and in any future case of a President of the Senate, who shall not have taken the said oath or affirmation, the same shall be administered to him by any one of the members of the Senate.*

*SEC. 3. And be it further enacted, That the members of the several State legislatures, at the next sessions of the said legislatures, respectively, and all executive and judicial officers of the several States, who have been heretofore chosen or appointed, or who shall be chosen or appointed before the first day of August next, and who shall then be in office, shall, within one month thereafter, take the same oath or affirmation, except where they shall have taken it before; which may be administered by any person authorized by the law of the State, in which such office shall be holden, to administer oaths. And the members of the several State legislatures, and all executive and judicial officers of the several States, who shall be chosen or appointed after the said first day of August, shall, before they proceed to execute the duties of their respective offices, take the foregoing oath or affirmation, which shall be administered by the person or persons, who by the law of the State shall be authorized to administer the oath of office; and the person or persons so administering the oath hereby required to be taken, shall cause a re- cord or certificate thereof to be made, in the same manner, as, by the law of the State, he or they shall be directed to record or certify the oath of office.*

*SEC. 4. And be it further enacted, That all officers appointed, or hereafter to be appointed under the authority of the United States, shall, before they act in their respective offices, take the same oath or affirmation, which shall be administered by the person or persons who shall be authorized by law to administer to such officers their respective oaths of office; and such officers shall incur the same penalties in case of failure, as shall be imposed by law in case of failure in taking their respective oaths of office.*

SEC. 5. And be it further enacted, That the secretary of the Senate, and the clerk of the House of Representatives for the time being, shall, at the time of taking the oath or affirmation aforesaid, each take an oath or affirmation in the words following, to wit : "I, A. B. secretary of the Senate, or clerk of the House of Representatives (as the case may be) of the United States of America, do solemnly swear or affirm, that I will truly and faithfully discharge the duties of my said office, to the best of my knowledge and abilities."

Based on the above, the following persons within the government are "public officers":

1. Federal Officers:
  - 1.1. The President of the United States.
  - 1.2. Members of the House of Representatives.
  - 1.3. Members of the Senate.
  - 1.4. All appointed by the President of the United States.
  - 1.5. The secretary of the Senate.
  - 1.6. The clerk of the House of Representatives.
  - 1.7. All district, circuit, and supreme court justices.
2. State Officers:
  - 2.1. The governor of the state.
  - 2.2. Members of the House of Representatives.
  - 2.3. Members of the Senate.
  - 2.4. All district, circuit, and supreme court justices of the state.

The "public offices" described in [26 U.S.C. §7701](#)(a)(26) within the definition of "trade or business" are ONLY public offices located in the District of Columbia and not elsewhere. To wit:

[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.*  
[SOURCE: <http://law.cornell.edu/uscode/text/4/72>]

The only provision of any act of Congress that we have been able to find which authorizes "public offices" outside the District of Columbia as expressly required by law above, is 48 U.S.C. §1612, which authorizes enforcement of the Internal Revenue Code within the U.S. Virgin Islands. To wit:

[TITLE 48 > CHAPTER 12 > SUBCHAPTER V > § 1612](#)  
[§ 1612. Jurisdiction of District Court](#)

(a) Jurisdiction

*The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28 and that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of title 26 shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 1617 of this title.*

There is NO PROVISION OF LAW which would similarly extend public offices or jurisdiction to enforce any provision of the Internal Revenue Code to any place within the exclusive jurisdiction of any state of the Union, because Congress enjoys NO LEGISLATIVE JURISDICTION THERE.

*"It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, [247 U.S. 251, 275](#), 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation."*  
[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]

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

By law then, no "public office" may therefore lawfully be exercised OUTSIDE the District of Columbia except as "expressly provided by law", including privileged or licensed activities such as a "trade or business". This was also confirmed by the U.S. Supreme Court in the License Tax Cases, when they said:

"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)]

Since Internal Revenue Code, Subtitle A is a tax on "public offices", which is called a "trade or business", then the tax can only apply to those domiciled within statutory "United States\*\*" (federal zone), wherever they are physically located to include states of the Union, but only if they are serving under oath in their official capacity as "public officers".

"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)]

Another important point needs to be emphasized, which is that those working for the federal government, while on official duty, are representing a federal corporation called the "United States", which is domiciled in the District of Columbia.

[TITLE 28 > PART VI > CHAPTER 176 > SUBCHAPTER A > Sec. 3002.](#)

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE

PART VI - PARTICULAR PROCEEDINGS

CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE

SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS

[Sec. 3002. Definitions](#)

(15) "United States" means -

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

Federal Rule of Civil Procedure 17(b) says that the capacity to sue and be sued civilly is based on one's domicile:

[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>]

Government employees, including “public officers”, while on official duty representing the federal corporation called the “United States”, maintain the character of the entity they represent and therefore have a legal domicile of the District of Columbia within the context of their official duties. The Internal Revenue Code also reflects this fact in **26 U.S.C. §7701(a)(39)** and **26 U.S.C. §7408(d)**:

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

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

(39) *Persons residing outside United States*

*If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident **shall be treated as residing in the District of Columbia for purposes of any provision of this title** relating to—*

(A) *jurisdiction of courts, or*

(B) *enforcement of summons*

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**TITLE 26 > Subtitle F > CHAPTER 76 > Subchapter A > § 7408**  
**§7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions**

(d) *Citizens and residents outside the United States*

*If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident **shall be treated for purposes of this section as residing in the District of Columbia.***

Kidnapping and transporting the legal identity of a person domiciled outside the District of Columbia in a legislatively foreign state, which includes states of the Union, is illegal pursuant to **18 U.S.C. §1201**. Therefore, the only people who can be legally and involuntarily “kidnapped” by the courts based on the above two provisions of statutory law are those who individually consent through private contract to act as “public officials” in the execution of their official duties. The fiduciary duty of these “public officials” is further defined in the I.R.C. as follows, and it is only by an oath of “public office” that this fiduciary duty can lawfully be created:

**TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671**  
**§ 6671. Rules for application of assessable penalties**

(b) *Person defined*

*The term “person”, as used in this subchapter, includes an officer or employee of a corporation, or a member or employee of a partnership, **who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.***

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**TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > § 7343**  
**§7343. Definition of term “person”**



The term "person" as used in this chapter includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

We remind our readers that there is *no liability statute within Subtitle A of the I.R.C.* that would create the duty documented above, and therefore the ONLY way it can be created is by the oath of office of the "public officers" who are the subject of the tax in question. This was thoroughly described in the following article:

*There's No Statute Making Anyone Liable to Pay IRC Subtitle A Income Taxes*  
<http://famguardian.org/Subjects/Taxes/Articles/NoStatuteLiable.htm>

The existence of fiduciary duty of "public officers" is therefore the ONLY lawful method by which anyone can be prosecuted for an "omission", which is a thing they didn't do that the law required them to do. It is otherwise illegal and unlawful to prosecute anyone under either common law or statutory law for a FAILURE to do something, such as a FAILURE TO FILE a tax return pursuant to 26 U.S.C. §7203. The duty to file a tax return comes NOT from a liability statute, but from the following liability associated with "taxpayers", all of whom are "public officers" within the United States government. The income tax is a franchise and you don't need liability statutes within the franchise agreement because all franchises are a product of your consent:

*I: DUTY TO ACCOUNT FOR PUBLIC FUNDS*

§ 909. In general.-

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

[Treatise on the Law of Public Offices and Public Officers, Floyd Mechem, 1890, p. 609, §909;  
SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

In addition to the above, every attorney admitted to practice law in any state or federal court is described as an "officer of the court", and therefore ALSO is a "public officer":

*Attorney at law.* An advocate, counsel, or official agent employed in preparing, managing, and trying cases in the courts. An officer in a court of justice, who is employed by a party in a cause to manage it for him. In re Bergeron, 220 Mass. 472, 107 N.E. 1007, 1008, Ann.Cas.1917A, 549.

*In English law. A public officer belonging to the superior courts of common law at Westminster. who conducted legal proceedings on behalf of others. called his clients, by whom he was retained; he answered to the solicitor in the courts of chancery, and the proctor of the admiralty, ecclesiastical, probate, and divorce courts. An attorney was almost invariably also a solicitor. It is now provided by the judicature act. 1873, 8 87. that solicitors. Attorneys, or proctors of, or by law empowered to practice in, any court the jurisdiction of which is by that act transferred to the high court of justice or the court of appeal, shall be called "solicitors of the supreme court." Wharton.*  
[Black's Law Dictionary, Fourth Edition, p. 164]

ATTORNEY AND CLIENT, Corpus Juris Secundum Legal Encyclopedia Volume 7, Section 4

*His [the attorney's] first duty is to the courts and the public, not to the client, and wherever the duties to his client conflict with those he owes as an officer of the court in the administration of justice, the former must yield to the latter.*

[7 Corpus Juris Secundum (C.J.S.), Attorney and Client, §4 (2003)]

Executive Order 12731 and 5 C.F.R. §2635.101(a) furthermore both indicate that "public service is a public trust":

Executive Order 12731  
"Part 1 -- PRINCIPLES OF ETHICAL CONDUCT

"Section 101. Principles of Ethical Conduct. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

**"(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.**

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.

The above provisions of law imply that everyone who works for the government is a “trustee” of “We the People”, who are the sovereigns they serve in the public. In law, EVERY “trustee” is a “fiduciary” of the Beneficiary of the trust within which he serves:

**“TRUSTEE.** The person appointed, or required by law, to execute a trust; one in whom an estate, interest, or power is vested, **under an express or implied agreement [e.g. PRIVATE LAW or CONTRACT] to administer or exercise it for the benefit or to the use of another called the cestui que trust.** *Pioneer Mining Co. v. Tyberg, C.C.A.Alaska, 215 F. 501, 506, L.R.A.1915B, 442; Kaehn v. St. Paul Co-op. Ass'n, 156 Minn. 113, 194 N.W. 112; Catlett v. Hawthorne, 157 Va. 372, 161 S.E. 47, 48. Person who holds title to res and administers it for others' benefit. Reinecke v. Smith, Ill., 53 S.Ct. 570, 289 US. 172, 77 L.Ed. 1109. In a strict sense, a "trustee" is one 'who holds the legal title to property for the benefit of another, while, in a broad sense, the term is sometimes applied to anyone standing in a fiduciary or confidential relation to another, such as agent, attorney, bailee, etc. State ex rel. Lee v. Sartorius, 344 Mo. 912, 130 S.W.2d. 547, 549, 550. "Trustee" is also used in a wide and perhaps inaccurate sense, to denote that a person has the duty of carrying out a transaction, in which he and another person are interested, in such manner as will be most for the benefit of the latter, and not in such a way that he himself might be tempted, for the sake of his personal advantage, to neglect the interests of the other. In this sense, directors of companies are said to be "trustees for the shareholders." Sweet. [Black's Law Dictionary, Fourth Edition, p. 1684]*

The fact that public service is a “public trust” was also confirmed by the U.S. Supreme Court, when it said:

*"Whatever these Constitutions and laws validly determine to be property, it is the duty of the Federal Government, through the domain of jurisdiction merely Federal, to recognize to be property.*

*"And this principle follows from the structure of the respective Governments, State and Federal, and their reciprocal relations. **They are different agents and trustees of the people of the several States, appointed with different powers and with distinct purposes, but whose acts, within the scope of their respective jurisdictions, are mutually obligatory.** "*  
[Dred Scott v. Sandford, 60 U.S. 393 (1856)]

An example of someone who is NOT a “public officer” is a federal “employee” on duty and who is not required to take an oath. Almost invariably, such “employees” have some kind of immediate supervisor who manages and oversees and evaluates his activities pursuant to the position description drafted for the position he fills. He may be a “trustee” and he may have a “fiduciary duty” to the public as a “public servant”, but he isn’t an “officer” or “public officer” unless and until he takes an oath of office prescribed by law. A federal “employee”, however, can become a “public office” by virtue of any one or more of the following events that we are aware of so far:

1. Being elected to political office.
2. Being appointed to political office by the President or the governor of a state of the Union.
3. Voluntarily engaging in a privileged, excise taxable activity called a “trade or business”, which effectively is an extension of the federal government and is defined as a “public office” in [26 U.S.C. §7701\(a\)\(26\)](#). A “trade or business” is a federal business franchise and partnership, in which you become a trustee and public official of the United States who has donated his private property temporarily to a “public use” for the purpose of procuring “privileged compensation” of a public office in the form of tax deductions under [26 U.S.C. §162](#), Earning income

credits under [26 U.S.C. §32](#), and a graduated REDUCED rate of tax under [26 U.S.C. §1](#). Only those engaged in a “public office”/“trade or business” can avail themselves of any of these pecuniary government financial incentives.

4. Engaging in a privileged activity regulated by the federal government, such as:

- 4.1. Pursuing a license to practice law. All attorneys are officers of the court, and all courts are part of the government and therefore “public” entities.
- 4.2. Applying for and accepting FDIC insurance as an officer of a bank. See 31 C.F.R. §202.2, which makes those accepting FDIC federal insurance into agents of the federal government.
- 4.3. Becoming an officer of a corporation, and only within the context of the jurisdiction the corporation is registered in. The officers of a state-only registered corporation would be “public officers” only within the context of the specific state they registered in. They would have to make application for recognition as a federal corporation to also be “public officers” in the context of federal law.

A “public office” is not limited to a natural person. It can also extend to an entire entity such as a corporation. An example of an entity that is a “public office” in its entirety is a federally chartered bank, such as the original Bank of the United States described in *Osborn v. United States*, in which the U.S. Supreme Court identified the original and first Bank of the United States, a federally chartered bank corporation created by Congress, as a “public office”:

***All the powers of the government must be carried into operation by individual agency, either through the medium of public officers, or contracts made with individuals.*** Can any public office be created, or does one exist, the performance of which may, with propriety, be assigned to this association [or trust], when incorporated? If such office exist, or can be created, then the company may be incorporated, that they may be appointed to execute such office. Is there any portion of the public business performed by individuals upon contracts, that this association could be employed to perform, with greater advantage and more safety to the public, than an individual contractor? If there be an employment of this nature, then may this company be incorporated to undertake it.

***There is an employment of this nature.*** Nothing can be more essential to the fiscal concerns of the nation, than an agent of undoubted integrity and established credit, with whom the public moneys can, at all times, be safely deposited. Nothing can be of more importance to a government, than that there should be some capitalist in the country, who possesses the means of making advances of money to the government upon any exigency, and who is under a legal obligation to make such advances. For these purposes the association would be an agent peculiarly suitable and appropriate. [ . . . ]

*The mere creation of a corporation, does not confer political power or political character. So this Court decided in Dartmouth College v. Woodward, already referred to. If I may be allowed to paraphrase the language of the Chief Justice, I would say, a bank incorporated, is no more a State instrument, than a natural person performing the same business would be. If, then, a natural person, engaged in the trade of banking, should contract with the government to receive the public money upon deposit, to transmit it from place to place, without charging for commission or difference of exchange, and to perform, when called upon, the duties of commissioner of loans, would not thereby become a public officer, how is it that this artificial being, created by law for the purpose of being employed by the government for the same purposes, should become a part of the civil government of the country? Is it because its existence, its capacities, its powers, are given by law? because the government has given it power to take and hold property in a particular form, and to employ that property for particular purposes, and in the disposition of it to use a particular name? because the government has sold it a privilege [22 U.S. 738, 774] for a large sum of money, and has bargained with it to do certain things; is it, therefore, a part of the very government with which the contract is made?*

***If the Bank be constituted a public office, by the connexion between it and the government, it cannot be the mere legal franchise in which the office is vested; the individual stockholders must be the officers.*** Their character is not merged in the charter. This is the strong point of the Mayor and Commonalty v. Wood, upon which this Court ground their decision in the Bank v. Deveaux, and from which they say, that cause could not be distinguished. Thus, aliens may become public officers, and public duties are confided to those who owe no allegiance to the government, and who are even beyond its territorial limits.

***With the privileges and perquisites of office, all individuals holding offices, ought to be subject to the disabilities of office. But if the Bank be a public office, and the individual stockholders public officers, this principle does not have a fair and just operation.*** The disabilities of office do not attach to the stockholders; for we find them every where holding public offices, even in the national Legislature, from which, if they be public officers, they are excluded by the constitution in express terms.

*If the Bank be a public institution of such character as to be justly assimilated to the mint and the post office, then its charter may be amended, altered, or even abolished, at the discretion of the National Legislature. All public offices are created [22 U.S. 738, 775] purely for public purposes, and may, at any time, be modified in such manner as the public interest may require. Public corporations partake of the same character. So it is distinctly adjudged in Dartmouth College v. Woodward. In this point, each Judge who delivered an opinion concurred. By one of the Judges it is said, that 'public corporations are generally esteemed such as exist for*

public political purposes only, such as towns, cities, parishes and counties; and in many respects they are so, although they involve some private interests; but, strictly speaking, public corporations are such only as are founded by the government for public purposes, where the whole interest belongs also to the government. If, therefore, the foundation be private, though under the charter of the government, the corporation is private, however extensive the uses may be to which it is devoted, either by the bounty of the founder, or the nature and objects of the institution. For instance, a bank, created by the government for its own uses, whose stock is exclusively owned by the government, is, in the strictest sense, a public corporation. So, a hospital created and endowed by the government for general charity. But a bank, whose stock is owned by private persons, is a private corporation, although it is erected by the government, and its objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases, the uses may, in a certain sense, be called public, but the corporations are private; as much [22 U.S. 738, 776] so, indeed, as if the franchises were vested in a single person.[. . .]

In what sense is it an instrument of the government? and in what character is it employed as such? Do the government employ the faculty, the legal franchise, or do they employ the individuals upon whom it is conferred? and what is the nature of that employment? does it resemble the post office, or the mint, or the custom house, or the process of the federal Courts?

The post office is established by the general government. It is a public institution. The persons who perform its duties are public officers. No individual has, or can acquire, any property in it. For all the services performed, a compensation is paid out of the national treasury; and all the money received upon account of its operations, is public property. Surely there is no similitude between this institution, and an association who trade upon their own capital, for their own profit, and who have paid the government a million and a half of dollars for a legal character and name, in which to conduct their trade.

Again: the business conducted through the agency of the post office, is not in its nature a private business. It is of a public character, and the [22 U.S. 738, 786] charge of it is expressly conferred upon Congress by the constitution. The business is created by law, and is annihilated when the law is repealed. But the trade of banking is strictly a private concern. It exists and can be carried on without the aid of the national Legislature. Nay, it is only under very special circumstances, that the national Legislature can so far interfere with it, as to facilitate its operations.

The post office executes the various duties assigned to it, by means of subordinate agents. The mails are opened and closed by persons invested with the character of public officers. But they are transported by individuals employed for that purpose, in their individual character, which employment is created by and founded in contract. To such contractors no official character is attached. These contractors supply horses, carriages, and whatever else is necessary for the transportation of the mails, upon their own account. The whole is engaged in the public service. The contractor, his horses, his carriage, his driver, are all in public employ. But this does not change their character. All that was private property before the contract was made, and before they were engaged in public employ, remain private property still. The horses and the carriages are liable to be taxed as other property, for every purpose for which property of the same character is taxed in the place where they are employed. The reason is plain: the contractor is employing his own means to promote his own private profit, and the tax collected is from the individual, though assessed upon the [22 U.S. 738, 787] means he uses to perform the public service. To tax the transportation of the mails, as such, would be taxing the operations of the government, which could not be allowed. But to tax the means by which this transportation is effected, so far as those means are private property, is allowable; because it abstracts nothing from the government; and because, the fact that an individual employs his private means in the service of the government, attaches to them no immunity whatever."

[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]

The record of the House of Representatives after the enactment of the first income tax during the Civil War in 1862, confirmed that the income tax was upon a "public office" and that even IRS agents, who are not "public officers" and who are not required to take an oath, was therefore exempt from the requirements of the revenue acts in place at the time. Read the amazing truth for yourself:

House of Representatives, Ex. Doc. 99, 1867  
<http://famguardian.org/Subjects/Taxes/Evidence/PublicOrPrivate-Tax-Return.pdf>

Below is an excerpt from that report proving our point. The Secretary of the Treasury at the time is comparing the federal tax liabilities of postal clerks to those of internal revenue clerks. At that time, the IRS was called the Bureau of Internal Revenue, and it was established in 1862 as an emergency measure to fund the Civil War, which ended shortly thereafter, but the bureau continued and expanded its operations illegally into the states over succeeding years:

House of Representatives, Ex. Doc. 99, 1867, pp. 1-2  
39<sup>th</sup> Congress, 2d Session

1 Salary Tax Upon Clerks to Postmasters

2 Letter from the Secretary of the Treasury in answer to A resolution of the House of the 12<sup>th</sup> of February,  
3 relative to salary tax upon clerks to postmasters, with the regulations of the department

4 Postmasters' clerks are appointed by postmasters, and take the oaths of office prescribed in the 2d section of  
5 the act of July 2, 1862, and in the 2d section of the act of March 3, 1863.

6 Their salaries are not fixed in amount bylaw, but from time to time the Post master General fixes the amount',  
7 allotted to each postmaster for clerk hire, under the authority conferred upon him by tile ninth section of the act  
8 of June 5, 1836, and then the postmaster, as an agent for and in behalf of the United States, determines the  
9 salary to be paid to each of his clerks. These salaries are paid by the postmasters, acting as disbursing agents,  
10 from United States moneys advanced to them for this purpose, either directly from the Post Office Department  
11 in pursuance of appropriations made by law, or from the accruing revenues of their offices, under the  
12 instructions of the Postmaster General. The receipt of such clerks constitute vouchers in the accounts of the  
13 postmasters acting as disbursing agents in the settlements made with them by the Sixth Auditor. In the  
14 foregoing transactions the postmaster acts not as a principal, but as an agent of the United States, and the  
15 clerks are not in his private employment, but in the public employment of the United States. Such being the  
16 facts, these clerks are subjected to and required to account for and pay the salary tax, imposed by the one  
17 hundred and twenty-third section of the internal revenue act of June 30, 1864, as amended by the ninth section  
18 of the internal revenue act of July 13, 1866, upon payments for services to persons in the civil employment or  
19 service of the United States.

20 Copies of the regulations under which such salary taxes are withheld and paid into the treasury to the credit of  
21 internal revenue collection account are herewith transmitted, marked A, b, and C. Clerks to assessors of  
22 internal revenue [IRS agents] are appointed by the assessors. Neither law nor regulations require them to  
23 take an oath of office, because, as the law at present stands, they are not in the public service of the United  
24 States, through the agency of the assessor, but are in the private service of the assessor, as a principal, who  
25 employs them.

26 The salaries of such clerks are neither fixed in amount by law, nor are they regulated by any officer of the  
27 Treasury Department over the clerk hire of assessors is to prescribe a necessary and reasonable amount which  
28 shall not be exceeded in reimbursing the assessors for this item of their expenses.

29 No money is advanced by the United States for the payment of such salaries, nor do the assessors perform the  
30 duties of disbursing agents of the United States in paying their clerks. The entire amount allowed is paid  
31 directly to the assessor, and he is not accountable to the United States for its payment to his clerks, for the  
32 reason that he has paid them in advance, out of his own funds, and this is a reimbursement to him of such  
33 amount as the department decides to be reasonable. No salary tax is therefore collected, or required by the  
34 Treasury Department to be accounted for, or paid, on account of payments to the assessors' clerks, as the  
35 United States pays no such clerks nor has them in its employ or service, and they do not come within the  
36 provisions of existing laws imposing such a tax.

37 Perhaps no better illustration of the difference between the status of postmasters' clerks and that of assessors'  
38 clerks can be given than the following: A postmaster became a defaulter, without paying his clerks,; his  
39 successor received from the Postmaster General a new remittance for paying them; and if at any time, the  
40 clerks in a post office do not receive their salaries, by reason of the death, resignation or removal of a  
41 postmaster, the new appointee is authorized by the regulations of the Post Office Department to pay them out of  
42 the proceeds of the office; and should there be no funds in his hands belonging to the department, a draft is  
43 issued to place money in his hands for that purpose.

44 If an assessor had not paid his clerks, they would have no legal claim upon the treasury for their salaries. A  
45 discrimination is made between postmasters' clerks and assessor's clerks to the extent and for the reasons  
46 hereinbefore set forth.

47 I have the honor to be, very respectfully, your obedient servant.

48 H. McCulloch, Secretary of the Treasury  
49 [House of Representatives, Ex. Doc. 99, 1867, pp. 1-2]

50 Notice based on the above that revenue officers don't take an oath, so they don't have to pay the tax, while postal clerks  
51 take an oath, so they do. Therefore, the oath that creates the "public office" is the method by which the government  
52 manufactures "public officers", "taxpayers", and "sponsors" for its wasteful use or abuse of public monies.

53 If you would like to investigate the subject of "public offices" and "public officers" further, we highly recommend the  
54 follow free book on the subject available online:



## 4 Legislative Intent of the Sixteenth Amendment<sup>29</sup>

*"It was not the purpose or effect of that amendment to bring any new subject within the taxing power."  
[Bowers v. Kerbaugh-Empire Co., 271 U.S. 170; 46 S.Ct. 449 (1926)]*

Whenever there are controversies over the interpretation of a taxing statute or a Constitutional provision, the first thing that courts of justice will resort to is the plain language of the law itself. If the language is unclear or subject to multiple interpretations, the courts will then examine the legislative intent revealed by those who wrote the law. The most revealing way to determine the legislative intent of any law is to examine the Congressional debates and Congressional Record preceding its enactment. All changes to the law that were proposed during debate and rejected must then be rejected as not being consistent with the intent of the proposed law. Family Guardian has photocopied all of the debates surrounding the ratification of the Sixteenth Amendment and made them available for free on the web at:

Sixteenth Amendment Congressional Debates  
<http://famguardian.org/TaxFreedom/History/Congress/1909-16thAmendCongrRecord.pdf>

From the above Congressional debates, here is what was said about the Sixteenth Amendment by Congressman Brandegee:

*"Mr. Brandegee. Mr. President, what I said was that the amendment exempts absolutely everything that a man makes for himself. Of course it would not exempt a legacy which somebody else made for him and gave to him. If a man's occupation or vocation—for vocation means nothing but a calling—if his calling or occupation were that of a financier it would exempt everything he made by underwriting and by financial operations in the course of a year that would be the product of his effort. Nothing can be imagined that a man can busy himself about with a view of profit which the amendment as drawn would not utterly exempt."  
[50 Cong.Rec. p. 3839, 1913]*

Even the U.S. Supreme Court agrees with the above conclusion that earnings from labor are not taxable to the person who did the work:

*"Every man has a natural right to the fruits of his own labor, is generally admitted; and no other person can rightfully deprive him of those fruits, and appropriate them against his will..."  
[The Antelope, 23 U.S. 66; 10 Wheat 66; 6 L.Ed. 268 (1825)]*

Being that there are greedy men in the government who will try to use legal sophistry to hoodwink you out of your hard-earned money, we must look deeper than the above to show that the legislative intent, according to the drafters of the Sixteenth Amendment, was to impose an un-apportioned indirect excise tax on the privileges of a "public office" in the national government. The first thing we must look at to discern the legislative intent of the Sixteenth Amendment is the proposal of the Amendment by the President himself.

Understanding the legislative intent of the Sixteenth Amendment is important because those who communicate with their Congressmen and the IRS are frequently told the lie that the Sixteenth Amendment authorized the tax which is being collected. You will see the ratification mentioned both by Congressmen in their correspondence with constituents and by the Congressional Research Service Report 97-59A entitled "Frequently Asked Questions Concerning the Federal Income Tax", which is featured on the web at:

Rebutted Version of Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax, Form #08.006  
<http://sedm.org/Forms/FormIndex.htm>

The following written message by President William H. Taft was read in front of the U.S. Senate, in which he introduced the 16<sup>th</sup> Amendment and clearly revealed its legislative intent. It is very revealing, in that it shows that the intent was to allow the government to tax only its own employees but not private citizens. President Taft would also later be appointed to the Supreme Court in 1921 as the Chief Justice, and eventually became the only U.S. President who ever served as the

<sup>29</sup> Adapted from section 3.11.11.1 of the Great IRS Hoax.

Chief Justice of the Supreme Court and a Collector of Internal Revenue. He replaced E.B. White as the Chief Justice, who you may recall was the person who opposed the majority view in the Pollock Case that declared income taxes unconstitutional. White wanted to make direct taxes legal, and apparently, so did Taft. No other U.S. President, therefore, had a better understanding of the legal implications of the proposed 16<sup>th</sup> Amendment than did Taft.

CONGRESSIONAL RECORD - SENATE - JUNE 16, 1909

[From Pages 3344 – 3345]

The Secretary read as follows:

To the Senate and House of Representatives:

*It is the constitutional duty of the President from time to time to recommend to the consideration of Congress such measures, as he shall judge necessary and expedient. In my inaugural address, immediately preceding this present extraordinary session of Congress, I invited attention to the necessity for a revision of the tariff at this session, and stated the principles upon which I thought the revision should be affected. I referred to the then rapidly increasing deficit and pointed out the obligation on the part of the framers of the tariff bill to arrange the duty so as to secure an adequate income, and suggested that if it was not possible to do so by import duties, new kinds of taxation must be adopted, and among them I recommended a graduated inheritance tax as correct in principle and as certain and easy of collection.*

*The House of Representatives has adopted the suggestion, and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of the debate indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the imposition of a general income tax, in form and substance of almost exactly the same character as, that which **in the case of Pollock v. Farmer's Loan and Trust Company (157 U.S., 429) was held by the Supreme Court to be a direct tax, and therefore not within the power of the Federal Government to impose unless apportioned among the several States according to population.** [Emphasis added] This new proposal, which I did not discuss in my inaugural address or in my message at the opening of the present session, makes it appropriate for me to submit to the Congress certain additional recommendations.*

*Again, it is clear that by the enactment of the proposed law the Congress will not be bringing money into the Treasury to meet the present deficiency. The decision of the Supreme Court in the income-tax cases **deprived the National Government of a power** which, by reason of previous decisions of the court, it was **generally supposed that government had.** It is undoubtedly a power the National Government ought to have. It might be indispensable to the Nation's life in great crises. Although I have not considered a constitutional amendment as necessary to the exercise of certain phases of this power, a mature consideration has satisfied me that an amendment is the only proper course for its establishment to its full extent.*

*I therefore recommend to the Congress that both Houses, by a two-thirds vote, **shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government** without apportionment among the States in proportion to population.*

[SOURCE OF TEXT OF ORIGINAL MESSAGE FROM CONGRESSIONAL RECORD:  
<http://www.sedm.org/MemberAgreement/16thLegislativeIntent-Taft19090616.pdf>]

Note the key words in Taft's speech about the Sixteenth Amendment:

*"I therefore recommend to the Congress that both Houses, by a two-thirds vote, **shall propose an amendment to the Constitution conferring the power to levy an income tax upon the National Government** without apportionment among the States in proportion to population."*

Based on the clever wording above, the tax proposed by the Sixteenth Amendment is upon the government, and not upon the populace. If he had meant to impose the tax upon the general populace, he would have instead said:

*"I therefore recommend to the Congress that both Houses, by a two-thirds vote, **shall propose an amendment to the Constitution conferring upon the National Government the power to levy an income tax against the states of the Union** without apportionment among the States in proportion to population."*

Taft was no dummy and knew exactly what he was saying here, because:

1. He was the sitting President when the [Sixteenth Amendment](#) was allegedly but fraudulently ratified in 1913.
2. He was in office when his lame duck Secretary of State Philander Knox fraudulently claimed that the [Sixteenth Amendment](#) was ratified in 1913, just before he left office.

3. His speech was given more than 45 years after the Civil War, in which the Congress had implemented exactly the kind of tax exclusively on federal employees as the one he wanted to put into the proposed [Sixteenth Amendment](#).
4. He was the sitting chief justice of the Supreme Court when they made the [Bowers v. Kerbaugh-Empire Co.](#) ruling at the beginning of this section.
5. During his tenure in office, Taft dismantled the Circuit Courts with the Judicial Code of 1911, and changed them from “District Courts of the United States” to “United States District Courts”. This changed their character from Article III Constitutional courts to [Article IV](#) legislative Courts. This set the stage for implementing the Internal Revenue Code against people in the States, who would subsequently be turned into “U.S. citizens” subject to federal jurisdiction by the corruption of the courts beginning in 1932, when all federal judges became biased “taxpayers” who would be persecuted if they did not side with the IRS.

Taft knew that just like the first income tax levied in 1862 to fund the Civil War, the only authority of the federal government to impose an income tax, following the declaration of the first such income tax being unconstitutional in the case of [Pollock v. Farmers Loan and Trust](#), was a tax upon the “employees” of the national government.

After the passage of the Sixteenth Amendment, the Supreme Court repeatedly held that:

*“... [the 16th Amendment] conferred no new power of taxation... [and]... prohibited the ... power of income taxation possessed by Congress from the beginning from being taken out of the category of indirect taxation to which it inherently belonged...”*  
*[Stanton v. Baltic Mining Co., 240 U.S. 103 (1916)]*

The only difference between before and after the [Sixteenth Amendment](#) was the way in which the Sixteenth Amendment was “presented” to the American public by the IRS and our politicians and the way the terms were later defined in subsequent revenue acts to confuse and obfuscate the true, limited nature of its applicability mainly to federal “employees”.

If you would like to know more about the history of this scandalous subject, see [Great IRS Hoax](#), Form #11.302, Sections 3.8.11.1 and 6.6.1.

## **5 Two Taxing Jurisdictions under the I.R.C.: “National” v. “Federal”<sup>30</sup>**

Having established the fine line between lawful public use taxation and unlawful private use taxation, we now concern ourselves with the authority of the federal government to enforce the payment of either.

The government deception gets worse, folks. Congress legislates for two separate territorial jurisdictions:

1. The states of the Union under the requirements of the Constitution of the United States. In this capacity, it is called the “federal/general government”.
2. The District of Columbia, U.S. possessions and territories, and enclaves within the states. In this capacity, it is called the “national government”. The authority for this jurisdiction derives from Article 1, Section 8, Clause 17 of the United States Constitution. All laws passed essentially amount to municipal laws for federal property, and in that capacity, Congress is not restrained by either the Constitution or the Bill of Rights. We call the collection of all federal territories, possessions, and enclaves within the states “the federal zone” throughout this document.

The U.S. Supreme Court confirmed the above when it held the following:

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

James Madison, one of our founding fathers, described these two separate jurisdictions in Federalist Paper #39, when he said:

<sup>30</sup> Source: *Two Political Jurisdiction: “National” Government v. “Federal” Government*, Family Guardian Fellowship;  
<http://famguardian.org/Subjects/Taxes/Remedies/USvUSA.htm>.

1 First. In order to ascertain the real character of the government, it may be considered in relation to the  
2 foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to  
3 the operation of those powers; to the extent of them; and to the authority by which future changes in the  
4 government are to be introduced.

5 On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and  
6 ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that  
7 this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as  
8 composing the distinct and independent States to which they respectively belong. It is to be the assent and  
9 ratification of the several States, derived from the supreme authority in each State, the authority of the people  
10 themselves. The act, therefore, establishing the Constitution, will not be a NATIONAL, but a FEDERAL act.

11 That it will be a federal and not a national act, as these terms are understood by the objectors; the act of the  
12 people, as forming so many independent States, not as forming one aggregate nation, is obvious from this  
13 single consideration, that it is to result neither from the decision of a MAJORITY of the people of the Union,  
14 nor from that of a MAJORITY of the States. It must result from the UNANIMOUS assent of the several States  
15 that are parties to it, differing no otherwise from their ordinary assent than in its being expressed, not by the  
16 legislative authority, but by that of the people themselves. Were the people regarded in this transaction as  
17 forming one nation, the will of the majority of the whole people of the United States would bind the minority, in  
18 the same manner as the majority in each State must bind the minority; and the will of the majority must be  
19 determined either by a comparison of the individual votes, or by considering the will of the majority of the  
20 States as evidence of the will of a majority of the people of the United States. Neither of these rules have been  
21 adopted. Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others,  
22 and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be  
23 a FEDERAL, and not a NATIONAL constitution.

24 The next relation is, to the sources from which the ordinary powers of government are to be derived. The  
25 House of Representatives will derive its powers from the people of America; and the people will be  
26 represented in the same proportion, and on the same principle, as they are in the legislature of a particular  
27 State. So far the government is NATIONAL, not FEDERAL. The Senate, on the other hand, will derive its  
28 powers from the States, as political and coequal societies; and these will be represented on the principle of  
29 equality in the Senate, as they now are in the existing Congress. So far the government is FEDERAL, not  
30 NATIONAL. The executive power will be derived from a very compound source. The immediate election of the  
31 President is to be made by the States in their political characters. The votes allotted to them are in a compound  
32 ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same  
33 society. The eventual election, again, is to be made by that branch of the legislature which consists of the  
34 national representatives; but in this particular act they are to be thrown into the form of individual delegations,  
35 from so many distinct and coequal bodies politic. From this aspect of the government it appears to be of a  
36 mixed character, presenting at least as many FEDERAL as NATIONAL features.

37 The difference between a federal and national government, as it relates to the OPERATION OF THE  
38 GOVERNMENT, is supposed to consist in this, that in the former the powers operate on the political bodies  
39 composing the Confederacy, in their political capacities; in the latter, on the individual citizens composing  
40 the nation, in their individual capacities. On trying the Constitution by this criterion, it falls under the  
41 NATIONAL, not the FEDERAL character; though perhaps not so completely as has been understood. In several  
42 cases, and particularly in the trial of controversies to which States may be parties, they must be viewed and  
43 proceeded against in their collective and political capacities only. So far the national countenance of the  
44 government on this side seems to be disfigured by a few federal features. But this blemish is perhaps  
45 unavoidable in any plan; and the operation of the government on the people, in their individual capacities, in its  
46 ordinary and most essential proceedings, may, on the whole, designate it, in this relation, a NATIONAL  
47 government.

48 But if the government be national with regard to the OPERATION of its powers, it changes its aspect again  
49 when we contemplate it in relation to the EXTENT of its powers. The idea of a national government involves in  
50 it, not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so  
51 far as they are objects of lawful government. Among a people consolidated into one nation, this supremacy is  
52 completely vested in the national legislature. Among communities united for particular purposes, it is vested  
53 partly in the general and partly in the municipal legislatures. In the former case, all local authorities are  
54 subordinate to the supreme; and may be controlled, directed, or abolished by it at pleasure. In the latter, the  
55 local or municipal authorities form distinct and independent portions of the supremacy, no more subject, within  
56 their respective spheres, to the general authority, than the general authority is subject to them, within its own  
57 sphere. In this relation, then, the proposed government cannot be deemed a NATIONAL one; since its  
58 jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and  
59 inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between  
60 the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the general  
61 government. But this does not change the principle of the case. The decision is to be impartially made,  
62 according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure  
63 this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of  
64 the compact; and that it ought to be established under the general rather than under the local governments, or,

1 to speak more properly, that it could be safely established under the first alone, is a position not likely to be  
2 combated.

3 *If we try the Constitution by its last relation to the authority by which amendments are to be made, we find it*  
4 *neither wholly NATIONAL nor wholly FEDERAL. Were it wholly national, the supreme and ultimate authority*  
5 *would reside in the MAJORITY of the people of the Union; and this authority would be competent at all times,*  
6 *like that of a majority of every national society, to alter or abolish its established government. Were it wholly*  
7 *federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration*  
8 *that would be binding on all. The mode provided by the plan of the convention is not founded on either of these*  
9 *principles. In requiring more than a majority, and principles. In requiring more than a majority, and*  
10 *particularly in computing the proportion by STATES, not by CITIZENS, it departs from the NATIONAL and*  
11 *advances towards the FEDERAL character; in rendering the concurrence of less than the whole number of*  
12 *States sufficient, it loses again the FEDERAL and partakes of the NATIONAL character.*

13 *The proposed Constitution, therefore, is, in strictness, neither a national nor a federal Constitution, but a*  
14 *composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers*  
15 *of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is*  
16 *national, not federal; in the extent of them, again, it is federal, not national; and, finally, in the authoritative*  
17 *mode of introducing amendments, it is neither wholly federal nor wholly national.*

18 PUBLIUS.  
19 [Federalist Paper #39, James Madison]

20 Based on Madison's comments, a "national government" operates upon and derives its authority from individual citizens  
21 whereas a "federal government" operates upon and derives its authority from states. The only place where the central  
22 government may operate directly upon the individual through the authority of law is within federal territory. Hence, when  
23 courts use the word "national government", they are referring to federal territory only and to no part of any state of the  
24 Union. The federal government has no jurisdiction within a state of the Union and therefore cannot operate directly upon  
25 the individual there.

26 "It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, 247  
27 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the  
28 internal affairs of the states; and emphatically not with regard to legislation."  
29 [Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]  
30

31 *The rights of life and personal liberty are natural rights of man. 'To secure these rights,' says the Declaration*  
32 *of Independence, 'governments are instituted among men, deriving their just powers from the consent of the*  
33 *governed.' The very highest duty of the States, when they entered into the Union under the Constitution, was*  
34 *to protect all persons within their boundaries in the enjoyment of these 'unalienable rights with which they*  
35 *were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the States. It is no more the*  
36 *duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within*  
37 *a State, than it would be to punish for false imprisonment or murder itself.*

38 *The fourteenth amendment prohibits a State from denying to any person within its jurisdiction the equal*  
39 *protection of the laws; but this provision does not, any more than the one which precedes it, and which we have*  
40 *just considered, add any thing to the rights which one citizen has under the Constitution against another. The*  
41 *equality of the rights of citizens is a principle of republicanism. Every republican government is in duty*  
42 *bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally*  
43 *assumed by the States; and it still remains there. The only obligation resting upon the United States is to see*  
44 *that the States do not deny the right. This the amendment guarantees, but no more. The power of the*  
45 *national government is limited to the enforcement of this guaranty.*  
46 [U.S. v. Cruikshank, 92 U.S. 542, 1875 WL 17550 (U.S.,1875)]

47 These two jurisdictions are separate sovereignties, and the Constitution dictates that these two distinct sovereignties MUST  
48 remain separate because of the Separation of Powers Doctrine:

49 "§79. This sovereignty pertains to the people of the United States as national citizens only, and not as citizens  
50 of any other government. There cannot be two separate and independent sovereignties within the same limits or  
51 jurisdiction; nor can there be two distinct and separate sources of sovereign authority within the same  
52 jurisdiction. The right of commanding in the last resort can be possessed only by one body of people inhabiting  
53 the same territory,' and can be executed only by those intrusted with the execution of such authority."  
54 [Treatise on Government, Form #11.207, Joel Tiffany, p. 49, Section 78;  
55 SOURCE: <http://famguardian.org/Publications/TreatiseOnGovernment/TreatOnGovt.pdf>]



1 The vast majority of all laws passed by Congress apply to the latter jurisdiction above: the federal zone. The Internal  
2 Revenue Code actually describes the revenue collection “scheme” for these two completely separate political and legal  
3 jurisdictions and the table below compares the two. In the capacity of the “national government”, the I.R.C. in Subtitles A  
4 (income tax), B (inheritance tax), and C (employment tax) acts as the equivalent of a state income tax for the municipal  
5 government of the District of Columbia only. In the capacity of the “federal government”, the I.R.C. in subtitle D acts as  
6 an excise tax on imports only. The difference between the “national government” and the “federal/general government” is  
7 discussed in section 4.7 of the *Great IRS Hoax*, if you would like to review:

1 **Table 6: Two jurisdictions within the I.R.C.**

#	Description	Legislative jurisdiction	
		"National government" of the District of Columbia	"Federal government" of the states of the Union
1	Constitutional authority for revenue collection	<a href="#">Article 1</a> , Section 8, Clause 1 <a href="#">Article 1</a> , Section 8, Clause 17	<a href="#">Article 1</a> , Section 8, Clause 3
2	Type of jurisdiction exercised	Plenary Exclusive	Subject matter
3	Nature of tax	Indirect excise tax upon privileges of "public office"	Indirect excise tax on <u>imports only</u> Excludes <u>exports</u> from states (Constitution 1:9:5) Excludes commerce exclusively <u>within</u> states
4	Taxable objects	<u>Internal</u> to the Federal zone or internal to the U.S. government	<u>External</u> to the states of the Union (imports coming in)
5	Region to which collections apply	Federal zone and abroad and excluding <u>states of the Union</u> : District of Columbia, territories and possessions of the United States.	The 50 states, harbors, ports of entry for imports
6	Revenue Collection Agency	Internal Revenue Service (IRS)	U.S. Customs (Dept. of the Treasury)
7	Authority for collection within the Internal Revenue Code	<a href="#">Subtitle A: Income Taxes</a> <a href="#">Subtitle B: Estate and Gift taxes</a> <a href="#">Subtitle C: Employment taxes</a> <a href="#">Subtitle E: Alcohol, Tobacco, and Certain Other Excise Taxes</a>	<a href="#">Subtitle D: Miscellaneous Excise Taxes</a>
8	Revenue collection applies to	1. "Public officials" engaged in a "trade or business" as defined in <a href="#">26 U.S.C. §7701(a)(26)</a> . 2. "U.S. persons" under <a href="#">26 U.S.C. §7701(a)(30)</a> living abroad in receipt of federal payments as described in <a href="#">26 U.S.C. §911</a> .	Federal corporations involved in foreign commerce
9	Taxable "activities"	1. "trade or business", which is defined as "the functions of a public office" in <a href="#">26 U.S.C. §7701(a)(26)</a> , conducted within the statutory "United States*" (federal zone) which is defined as the "United States" in <a href="#">26 U.S.C. §7701(a)(9)</a> and (a)(10) and 4 U.S.C. §110(d). 2. Transfer of property from people who died in the federal zone to their heirs (I.R.C. Subtitle B).	Foreign Commerce under <a href="#">26 U.S.C. §7001</a> and Constitution Article 1, Section 8, Clause 3.
10	Revenues pay for	Socialism/communism	Protection of states of the Union, including military, courts, and jails.
11	Revenue collection functions like	Municipal/state government income tax	Federal tax on foreign commerce
12	Definition of the term "United States" found in	1. <a href="#">26 U.S.C. §7701(a)(9)</a> and (a)(10) 2. <a href="#">26 U.S.C. §3121(e)</a>	<a href="#">26 U.S.C. §4612</a>
13	Example "taxes"	1. W-4 withholding on federal "employees" 2. Estate taxes 3. Social security 4. Medicare 5. Alcohol, tobacco, and firearms under U.S.C. Title 27	Taxes on imported fuels

#	Description	Legislative jurisdiction	
		"National government" of the District of Columbia	"Federal government" of the states of the Union
14	Applicable tax forms	IRS Forms 941, 1040, 1040NR, 1120, W-2, W-4	CBP Form CF 6084 (customs bill)

The "plenary" jurisdiction described above means exclusive sovereignty which is not shared by any other sovereignty and which is exercised over territorial lands owned by or ceded to the federal government under Article 1, Section 8, Clause 17 of the Constitution. Here is a cite that helps confirm what we are saying about the "plenary" word above:

*"In dealing with the meaning and application of an act of Congress enacted in the exercise of its plenary power under the Constitution to tax income and to grant exemptions from that tax [in its own territories and possessions ONLY but NOT in the states of the Union], it is the will of Congress which controls, and the expression of its will, in the absence of language evidencing a different purpose, should be interpreted 'so as to give a uniform application to a nation-wide scheme of taxation'. Burnet v. Harmel, [287 U.S. 103, 110](#), 53 S.Ct. 74, 77. Congress establishes its own criteria and the state law may control [in federal territories and possessions] only when the federal taxing act by express language or necessary implication makes its operation dependent upon state law. Burnet v. Harmel, supra. See Burk-Waggoner Oil Association v. Hopkins, [269 U.S. 110, 111](#), 114 S., 46 S.Ct. 48, 49; Weiss v. Wiener, [279 U.S. 333](#), 49 S.Ct. 337; Morrissey v. Commissioner, [296 U.S. 344, 356](#), 56 S.Ct. 289, 294. Compare Crooks v. Harrelson, [282 U.S. 55, 59](#), 51 S.Ct. 49, 50; Poe v. Seaborn, [282 U.S. 101, 109](#), 110 S., 51 S.Ct. 58; Blair v. Commissioner, [300 U.S. 5, 9](#), 10 S., 57 S.Ct. 330, 331."*  
[\[Lyeth v. Hoey, 305 U.S. 188, 59 S. Ct 155 \(1938\)\]](#)

Why is such jurisdiction "plenary" or "exclusive"? Because all those who file IRS Form 1040 returns implicitly consent to be treated as "virtual residents" of the federal zone, over which Congress has exclusive legislative jurisdiction under [Article 1, Section 8](#), Clause 17 of the Constitution!:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)  
[Sec. 7701. – Definitions](#)

(a)(39) Persons residing outside [the federal] United States

*If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to -*

(A) jurisdiction of courts, or  
 (B) enforcement of summons.

Because kidnapping is illegal under [18 U.S.C. §1201](#), people living in states of the Union subject to the provisions above must be volunteers and must explicitly consent to participate in federal taxation by filling out the WRONG tax form, which is the 1040, and signing it under penalty of perjury. The [IRS Published Products Catalog \(2003\), Document 7130](#) confirms that those who file IRS Form 1040 do indeed declare themselves to be "citizens or residents of the [federal] United States", which is untrue for the vast majority of Americans:

1040A 11327A Each  
 U.S. Individual Income Tax Return

*Annual income tax return filed by citizens and residents of the United States. There are separate instructions available for this item. The catalog number for the instructions is 12088U.*

W:CAR:MP:FP:F:I Tax Form or Instructions  
[\[IRS Published Products Catalog \(2003\), Document 7130, p. F-15\]](#)

If American Nationals living in the states of the Union would learn to file with their correct status using the form 1040NR as "nationals" and "nonresident aliens", then most Americans wouldn't owe anything under the provisions of [26 U.S.C. §871\(a\)](#) ! The U.S. Congress and their IRS henchmen have become "sheep poachers", where you, a person living in a state of the Union and outside of federal legislative jurisdiction, are the "sheep". They are "legally kidnapping" people away from the Constitutional protections of their domicile within states using deceptive forms so that they volunteer into exclusive federal jurisdiction.

Notice the use of the term “nation-wide” in the *Lyeth* case above, which we now know means the “national government” in the context of its jurisdiction over federal territories, possessions, and the District of Columbia and which excludes states of the Union. They are just reiterating that federal jurisdiction over the federal zone is “exclusive” and “plenary” and that state law only applies where Congress consents to delegate authority, under the rules of “comity”, to the state relating to taxing matters over federal areas within the exterior limits of a state.

*“comity. Courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out of deference and good will. Recognition that one sovereignty allows within its territory to the legislative, executive, or judicial act of another sovereignty, having due regard to rights of its own citizens. Nowell v. Nowell, Tex.Civ.App., 408 S.W.2d. 550, 553. In general, principle of “comity” is that courts of one state or jurisdiction will give effect to laws and judicial decisions of another state or jurisdiction, not as a matter of obligation, but out of deference and mutual respect. Brown v. Babbitt Ford, Inc., 117 Ariz. 192, 571 P.2d. 689, 695. See also Full faith and credit clause.”*  
[Black’s Law Dictionary, Sixth Edition, p. 267]

An example of this kind of “comity” is the Buck Act, [4 U.S.C. §§110-113](#), in which [4 U.S.C. §106](#) delegates authority to federal territories and possessions, but not states of the Union, to tax areas within their boundaries subject to exclusive federal jurisdiction. That jurisdiction then is mentioned in the context of [5 U.S.C. §5517](#) as applying ONLY to federal “employees”.

The above table is confirmed by the Supreme Court in the case of *Downes v. Bidwell*, which said on the subjects covered by the table:

*“Loughborough v. Blake, 5 Wheat. 317, 5 L.Ed. 98, was an action of trespass or, as appears by the original record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. It was insisted that Congress could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia. In the latter character, it was admitted that the power of levying direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power ‘to lay and collect taxes, imposts, and excises,’ which ‘shall be uniform throughout the United States,’ inasmuch as the District was no part of the United States [described in the Constitution]. It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States. The fact that art. 1, 2, declares that ‘representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers’ furnished a standard by which taxes were apportioned, but not to exempt any part of the country from their operation. The words used do not mean that direct taxes shall be imposed on states only which are represented, or shall be apportioned to representatives; but that direct taxation, in its application to states, shall be apportioned to numbers.’ That art. 1, 9, 4, declaring that direct taxes shall be laid in proportion to the census, was applicable to the District of Columbia, ‘and will enable Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion to the census or enumeration referred to.’ It was further held that the words of the 9th section did not ‘in terms require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of the 2d section require that it shall be extended to all the states. They therefore may, without violence, be understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.”*

*“There could be no doubt as to the correctness of this conclusion, so far, at least, as it applied to the District of Columbia. This District had been a part of the states of Maryland and [182 U.S. 244, 261] Virginia. It had been subject to the Constitution, and was a part of the United States[\*\*\*]. The Constitution had attached to it irrevocably. There are steps which can never be taken backward. The tie that bound the states of Maryland and Virginia to the Constitution could not be dissolved, without at least the consent of the Federal and state governments to a formal separation. The mere cession of the District of Columbia to the Federal government relinquished the authority of the states, but it did not take it out of the United States or from under the aegis of the Constitution. Neither party had ever consented to that construction of the cession. If, before the District was set off, Congress had passed an unconstitutional act affecting its inhabitants, it would have been void. If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly, by carving out the District, what it could not do directly. The District still remained a part of the United States, protected by the Constitution. Indeed, it would have been a fanciful construction to hold that territory which had been once a part of the United States ceased to be such by being ceded directly to the Federal government.”*

[. . .]

*“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*

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

## 15 **6 “U.S. source” means NATIONAL GOVERNMENT source in the Internal** 16 **Revenue Code, Subtitles A and C<sup>31</sup>**

17 This section will deal with the issue of the meaning of “United States” in the context of “U.S. source” within Internal  
18 Revenue Code, Subtitles A and C. It is only a “U.S. source” and “sources within the United States” that are taxable under  
19 these provisions of the I.R.C. We will prove that the only thing that it can mean is the NATIONAL and not STATE  
20 government, and that not even all national government payments fall in this category, but only those payments that are paid  
21 to public offices within the national government.

### 22 **6.1 Sixteenth Amendment was proposed by President Taft as a tax on the NATIONAL government, not upon a** 23 **geography**

24 When President Taft proposed the Sixteenth Amendment, he introduced it as a tax upon the NATIONAL GOVERNMENT,  
25 and not upon a geography. Below is the proof from the Congressional Record:

26 *“The decision of the Supreme Court in the income-tax cases deprived the National Government of a power,*  
27 *which by reason of previous decisions of the court; it was generally supposed that government had. It is*  
28 *undoubtedly a power the National Government ought to have, It might be indispensable to the Nation’s life in*  
29 *great crises. Although I have not considered a constitutional amendment as necessary to the exercise of certain*  
30 *phases of this power. a mature consideration has satisfied me that an amendment is the only proper course for*  
31 *its establishment to its full extent.*

32 **I therefore recommend to the Congress that both Houses, by a two-thirds vote, shall propose an amendment**  
33 **to the Constitution conferring the power to levy an income tax upon the National Government without**  
34 **apportionment among the States in proportion to population.”**

35 [Legislative Intent of the 16th Amendment written by President William Taft, June 16, 1909, Congressional  
36 Record pp. 3344-3345, SEDM Exhibit #02.001; <https://sedm.org/Exhibits/ExhibitIndex.htm>]

37 From the above, we can see that the income tax implemented by the Sixteenth Amendment is NOT a tax upon private  
38 human beings, but upon the GOVERNMENT. That government is a federal corporation pursuant to 28 U.S.C.  
39 §3002(15)(A).

40 *“Corporations are also of all grades, and made for varied objects; **all governments are corporations, created***  
41 ***by usage and common consent, or grants and charters which create a body politic for prescribed purposes;***  
42 ***but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise***  
43 ***of power, they are all governed by the same rules of law, as to the construction and the obligation of the***  
44 ***instrument by which the incorporation is made. One universal rule of law protects persons and property.*** It is  
45 a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all  
46 persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2  
47 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same  
48 footing of protection as other persons, and their corporate property secured by the same laws which protect  
49 that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' without due process of law,  
50 is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the  
51 federal government, by the amendments to the constitution."  
52 [Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, [36 U.S. 420](#) (1837)]  
53

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<sup>31</sup> Source: *Non-Resident Non-Person Position*, Form #05.020, Section 5.6; <http://sedm.org/Forms/FormIndex.htm>.



TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE  
PART VI - PARTICULAR PROCEEDINGS  
CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE  
SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS  
Sec. 3002. Definitions

(15) "United States" means -

(A) a Federal corporation;

(B) an agency, department, commission, board, or other entity of the United States; or

(C) an instrumentality of the United States.

Hence, the income tax is an excise tax ONLY upon public offices. Everything the government does as a legal fiction is done through public offices and contracts. Hence, the tax could ONLY be upon these offices and contracts:

"All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals."

[Osborn v. Bank of U.S., 22 U.S. 738 (1824)]

Any federally chartered corporation is an instrumentality of the mother "U.S. Inc." corporation and therefore ALSO a public office and franchise of the national government.

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

Hence, the tax proposed above by the proposed Sixteenth Amendment is a tax ONLY upon federal corporations, which are franchises.

"Is it a franchise? A franchise is said to be a right reserved to the people by the constitution, as the elective franchise. Again, it is said to be a privilege conferred by grant from government, and vested in one or more individuals, as a public office. Corporations, or bodies politic are the most usual franchises known to our laws."

[People v. Ridgley, 21 Ill. 65, 1859 WL 6687, 11 Peck 65 (Ill., 1859)]

The income tax is a franchise tax upon the PRIVILEGE of operating as a federal and not state corporation. It in effect functions as "liability insurance premium" paid to the government for the privilege of operating the corporation WITHOUT personal liability to the officers of the corporation or shareholders. All franchises are implemented as excise taxes and would come under the category of excise taxes within Article 1, Section 8, Clause 1 of the Constitution:

Article I - U.S. Constitution

Section 8

Clause 1

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

The above analysis explains the following rulings on income taxes AFTER the Sixteenth Amendment proposed by Taft was enacted FRAUDULENTLY:

"The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, "from [271 U.S. 174] whatever source derived," without apportionment among the several states and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be "direct taxes" within the meaning of the constitutional requirement as to apportionment. Art. I, § 2, cl. 3, § 9, cl. 4; Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes "from whatever source derived." Brushaber v. Union P. R. Co., 240 U.S. 1, 17. "Income" has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v. Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v. Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169; Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United States v. Supplee-Biddle Co., 265 U.S. 189, 194; Irwin v. Gavit, 268 U.S. 161, 167; Edwards v. Cuba Railroad, 268 U.S. 628, 633. In determining what constitutes income, substance rather than form is to be given controlling weight. Eisner v. Macomber, supra, 206. [271 U.S. 175]" [Bowers v. Kerbaugh-Empire Co., 271 U.S. 170, 174, (1926)]

Note that the tax described in the Corporation Excise Tax Act of 1909 was a tax ONLY upon federal and not state corporations.

"...Whatever difficulty there may be about a precise scientific definition of 'income,' it imports, as used here, something entirely distinct from principal or capital either as a subject of taxation or as a measure of the tax; conveying rather the idea of gain or increase arising from corporate activities." [Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185, 38 S.Ct. 467 (1918)]

"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)]

When confronted by the above realities in a video interview, the Former IRS Commissioner Shelton Cohen (a Jewish money grubbing Pharisee<sup>32</sup> in private practice at the time) told movie producer Aaron Russo (who had terminal cancer at the time) that he didn't give a DAMN about what the Supreme Court says on the subject! Quite the anarchist! Instead he said all the people in Washington want to do is "play word games". He didn't say WHY they want to play "word games" but the reason is obvious: They want to deceive people out of their money by playing word games. SCUM BAG. He ought to be behind bars! Watch it for yourself:

Interview of Former IRS Commissioner Shelton Cohen by Aaron Russo, SEDM Exhibit #11.004  
<https://sedm.org/Exhibits/ExhibitIndex.htm>

For a fascinating history of President Taft, Chief Justice Taft, and former Revenue Collector Taft, see:

Great IRS Hoax, Form #11.032, Section 6.7.1  
<http://sedm.org/Forms/FormIndex.htm>

## **6.2 Being a federal corporation is the ONLY way provided in federal statutes to transition from being legislatively "foreign" to "domestic"**<sup>33</sup>

The definitions found within the Internal Revenue Code and the rules of statutory construction betray the fact that the only way to be "domestic" in relation to the national government is to be is be a national corporation registered in the District of Columbia.

<sup>32</sup> See *Who Were the Pharisees and Saducees?*, Form #05.047; <http://sedm.org/Forms/FormIndex.htm>.

<sup>33</sup> Source: *Corporatization and Privatization of the Government*, Form #05.024, Section 3; <http://sedm.org/Forms/FormIndex.htm>.

26 U.S. Code § 7701 - Definitions

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

(3) Corporation

The term “corporation” includes associations, joint-stock companies, and insurance companies.

(4) Domestic

The term “domestic” when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term “foreign” when applied to a corporation or partnership means a corporation or partnership which is not domestic.

The rules of statutory construction forbid extending the statutory term defined above to include anything OTHER than that defined above, including PRIVATE human beings. Therefore, the ONLY thing “domestic” are national corporations. All human beings are therefore FOREIGN for legislative purposes.

**“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)]

**“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]

Everything that is either NOT a corporation or NOT registered in the District of Columbia as a national corporation is therefore legislatively “foreign” for the purpose of the Internal Revenue Code. This is also consistent with the fact that “income” is defined in the Internal Revenue Code and by the U.S. Supreme Court as profit in connection with a federal corporation or business trust.

**“The Sixteenth Amendment declares that Congress shall have power to levy and collect taxes on income, “from [271 U.S. 174] whatever source derived,” without apportionment among the several states and without regard to any census or enumeration. It was not the purpose or effect of that amendment to bring any new subject within the taxing power. Congress already had power to tax all incomes. But taxes on incomes from some sources had been held to be “direct taxes” within the meaning of the constitutional requirement as to apportionment. Art. 1, §2, cl. 3, § 9, cl. 4; Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601. The Amendment relieved from that requirement, and obliterated the distinction in that respect between taxes on income that are direct taxes and those that are not, and so put on the same basis all incomes “from whatever source derived.” Brushaber v. Union P. R. Co., 240 U.S. 1, 17. “Income” has been taken to mean the same thing as used in the Corporation Excise Tax Act of 1909, in the Sixteenth Amendment, and in the various revenue acts subsequently passed. Southern Pacific Co. v. Lowe, 247 U.S. 330, 335; Merchants' L. & T. Co. v. Smietanka, 255 U.S. 509, 219. After full consideration, this Court declared that income may be defined as gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital. Stratton's Independence v. Howbert, 231 U.S. 399, 415; Doyle v. Mitchell Brothers Co., 247 U.S. 179, 185; Eisner v. Macomber, 252 U.S. 189, 207. And that definition has been adhered to and applied repeatedly. See, e.g., Merchants' L. & T. Co. v. Smietanka, supra; 518; Goodrich v. Edwards, 255 U.S. 527, 535; United States v. Phellis, 257 U.S. 156, 169; Miles v. Safe Deposit Co., 259 U.S. 247, 252-253; United**

1 *States v. Supplee-Biddle Co.*, 265 U.S. 189, 194; *Irwin v. Gavit*, 268 U.S. 161, 167; *Edwards v. Cuba Railroad*,  
2 268 U.S. 628, 633. In determining what constitutes income, substance rather than form is to be given  
3 controlling weight. *Eisner v. Macomber*, *supra*, 206. [271 U.S. 175]"  
4 [*Bowers v. Kerbaugh-Empire Co.*, [271 U.S. 170](#), 174, (1926)]

5  
6 [TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter J > PART I > Subpart A > § 643](#)  
7 [§ 643. Definitions applicable to subparts A, B, C, and D](#)

8 (b) **Income**

9 For purposes of this subpart and subparts B, C, and D, **the term "income", when not preceded by the words**  
10 **"taxable", "distributable net", "undistributed net", or "gross", means the amount of income of the estate or**  
11 **trust for the taxable year determined under the terms of the governing instrument and applicable local law.**  
12 Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary,  
13 acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and  
14 applicable local law shall not be considered income.

15 That "trust" described above in turn is ONLY a PUBLIC trust, meaning the "United States corporation". The definitions of  
16 "person" within the Internal Revenue Code confirm this:

17 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671](#)  
18 [§ 6671. Rules for application of assessable penalties](#)

19 (b) Person defined

20 The term "person", as used in this subchapter, includes an officer or employee of a corporation, or a member  
21 or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in  
22 respect of which the violation occurs.

23  
24 [TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > Sec. 7343.](#)  
25 [Sec. 7343.](#) - Definition of term "person"

26 The term "person" as used in this chapter [Chapter 75] includes an officer or employee of a corporation  
27 [U.S. Inc.], or a member or employee of a partnership, who as such officer, employee, or member is under a  
28 duty to perform the act in respect of which the violation occurs.

29 The PRIVILEGE of exercising the "functions of a public office" is the PRIVILEGE being taxed. That "privilege" is  
30 legally defined in 26 U.S.C. §7701(a)(26) as a "trade or business":

31 "*As repeatedly pointed out by this court, the Corporation Tax Law of 1909. imposed an excise or privilege tax,*  
32 *and not in any sense, a tax upon property or upon income merely as income.* It was enacted in view of the  
33 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,  
34 39 L.Ed. 1108, 15 Sup.Ct.Rep. 912, which held the income tax provisions of a previous law to be  
35 unconstitutional because amounting in effect to a direct tax upon property within the meaning of the  
36 Constitution, and because not apportioned in the manner required by that instrument."  
37 [*U.S. v. Whiteridge*, [231 U.S. 144](#), 34 S.Sup.Ct. 24 (1913)]

38 Congress can only tax or regulate what it creates, and it didn't create you. Corporations and offices within the government  
39 in fact are the only legal "persons" they can lawfully create and therefore tax. This is explained in:

[Hierarchy of Sovereignty: The Power to Create is the Power to Tax](http://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm), Family Guardian Fellowship  
<http://famguardian.org/Subjects/Taxes/Remedies/PowerToCreate.htm>

40 Everything the government DIDN'T create is therefore PRIVATE and legislatively FOREIGN. The U.S. Supreme Court  
41 confirmed that the tax is upon AGENCY as a PUBLIC OFFICE in the national government when they held that the tax can  
42 lawfully extend ONLY where the government itself extends, but no further.

43 "*Loughborough v. Blake*, 5 Wheat. 317, 5 L.Ed. 98, was an action of trespass or, as appears by the original  
44 record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose  
45 a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. **It was insisted that Congress**

could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia. In the latter character, it was admitted that the power of levying direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' inasmuch as the District was no part of the United States [described in the Constitution]. It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States. The fact that art. 1, 2, declares that 'representatives and direct taxes shall be apportioned among the several states . . . according to their respective numbers' furnished a standard by which taxes were apportioned, but not to exempt any part of the country from their operation. The words used do not mean that direct taxes shall be imposed on states only which are represented, or shall be apportioned to representatives; but that direct taxation, in its application to states, shall be apportioned to numbers.' That art. 1, 9, 4, declaring that direct taxes shall be laid in proportion to the census, was applicable to the District of Columbia, 'and will enable Congress to apportion on it its just and equal share of the burden, with the same accuracy as on the respective states. If the tax be laid in this proportion, it is within the very words of the restriction. It is a tax in proportion to the census or enumeration referred to.' It was further held that the words of the 9th section did not 'in terms require that the system of direct taxation, when resorted to, shall be extended to the territories, as the words of the 2d section require that it shall be extended to all the states. They therefore may, without violence, be understood to give a rule when the territories shall be taxed, without imposing the necessity of taxing them.'"  
[Downes v. Bidwell, [182 U.S. 244](#) (1901)]

The phrase "extended to all places over which the government extends" means where the OFFICES and therefore STATUTORY "persons" of the government extend. Those offices, as indicated above, can be exercised ANYWHERE, but Congress MUST EXPRESSLY authorize their exercise in a SPECIFIC geographic place and cause those exercising it to take an oath, as required by 4 U.S.C. §72 and 5 U.S.C. §3331 respectively. Those offices, in turn, are "officers of a corporation" because the government itself is a corporation as held by the U.S. Supreme Court:

"Corporations are also of all grades, and made for varied objects; all governments are corporations, created by usage and common consent, or grants and charters which create a body politic for prescribed purposes; but whether they are private, local or general, in their objects, for the enjoyment of property, or the exercise of power, they are all governed by the same rules of law, as to the construction and the obligation of the instrument by which the incorporation is made. One universal rule of law protects persons and property. It is a fundamental principle of the common law of England, that the term freemen of the kingdom, includes 'all persons,' ecclesiastical and temporal, incorporate, politique or natural; it is a part of their magna charta (2 Inst. 4), and is incorporated into our institutions. The persons of the members of corporations are on the same footing of protection as other persons, and their corporate property secured by the same laws which protect that of individuals. 2 Inst. 46-7. 'No man shall be taken,' 'no man shall be disseised,' 'without due process of law, is a principle taken from magna charta, infused into all our state constitutions, and is made inviolable by the federal government, by the amendments to the constitution.'"  
[Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, [36 U.S. 420](#) (1837)]

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE  
[PART VI - PARTICULAR PROCEEDINGS](#)  
[CHAPTER 176 - FEDERAL DEBT COLLECTION PROCEDURE](#)  
[SUBCHAPTER A - DEFINITIONS AND GENERAL PROVISIONS](#)  
[Sec. 3002. Definitions](#)

(15) "United States" means -  
(A) a Federal corporation;  
(B) an agency, department, commission, board, or other entity of the United States; or  
(C) an instrumentality of the United States.

### 6.3 "trade or business"="public office"

Subtitle A of the Internal Revenue Code imposes a tax upon three distinct groups. These are:

1. Public employees domiciled in the federal zone and residing there: The tax imposed in [26 U.S.C. §1](#) against those domiciled in the federal zone engaged in a "trade or business", which is defined as "the functions of a public office" in [26 U.S.C. §7701\(a\)\(26\)](#). This includes:

- 1.1. "U.S. citizens" who are described in 8 U.S.C. §1401 as persons born in the federal zone. See:

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

- 1.2. "residents" who are all aliens and foreign nationals domiciled in our country.



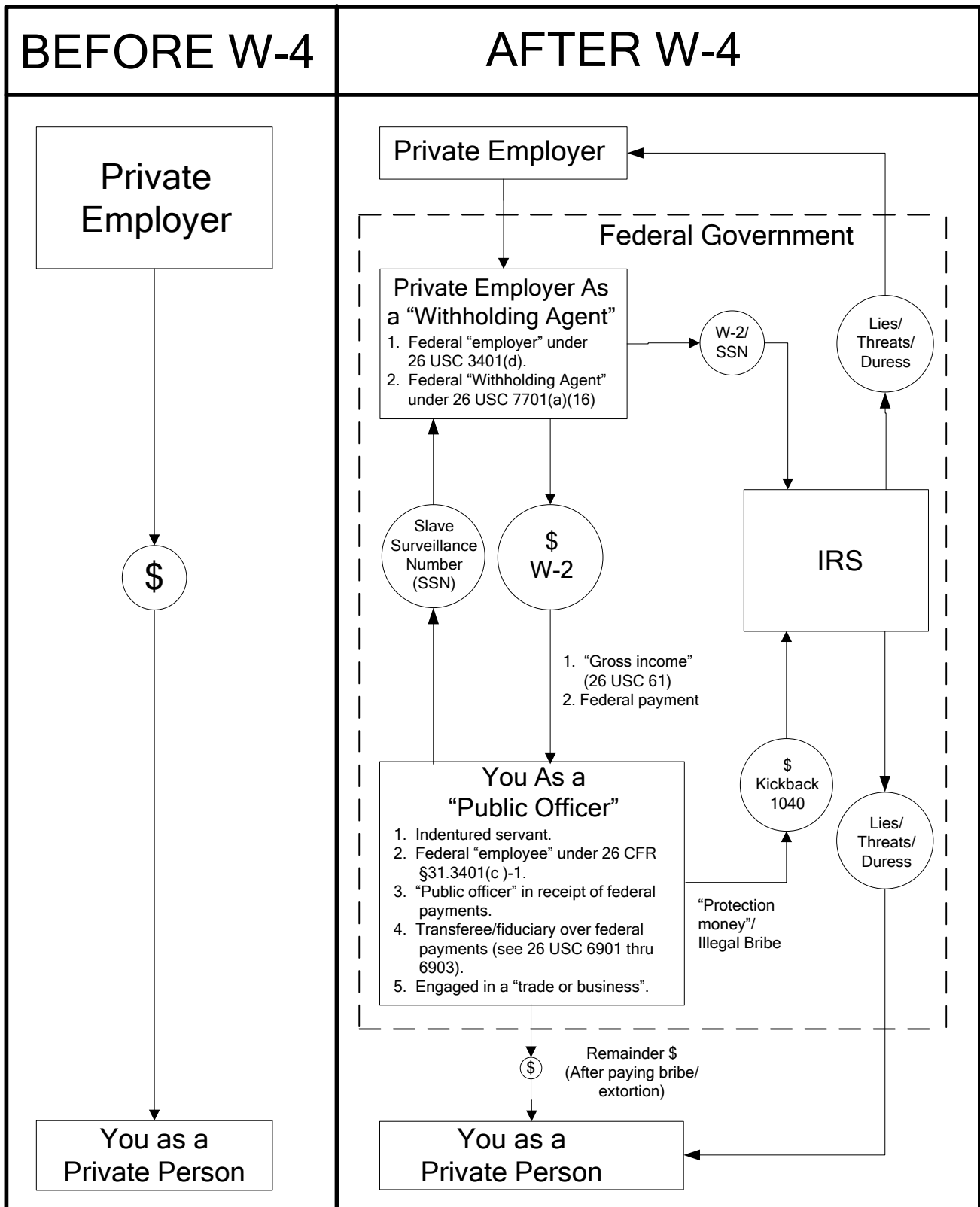
2. Public employees domiciled in the federal zone and traveling overseas: The tax is imposed under [26 U.S.C. §911](#) upon those domiciled in the federal zone who are traveling temporarily overseas and fall under a tax treaty. The tax applies only to “trade or business” income which is recorded on an IRS Form 1040 and 2555. See also the Supreme Court case of *Cook v. Tait*, 265 U.S. 47 (1924).
3. Nonresident aliens receiving government payments: The tax imposed under [26 U.S.C. §871](#) on nonresident aliens with government income that is:
  - 3.1. Not connected with a “trade or business” under [26 U.S.C. §871\(a\)](#) but originates from the federal zone.
  - 3.2. Connected with a “trade or business” under [26 U.S.C. §871\(b\)](#).

Those engaged in a “trade or business”:

1. Must be federal statutory “employees” and “public officers” and “subcontractors” for the federal government under [26 C.F.R. §31.3401\(c\)-1](#) and 5 U.S.C. §2105(a).
2. Are acting in a representative capacity for the federal corporation called the “United States” defined in [28 U.S.C. §3002\(15\)\(A\)](#) and therefore are subject to the laws where the corporation was incorporated under [Federal Rule of Civil Procedure 17\(b\)](#), which is the District of Columbia.
3. Are completely subject to federal jurisdiction without the need for implementing regulations published in the Federal Register, as revealed under [44 U.S.C. §1505\(a\)\(1\)](#), [5 U.S.C. §552\(a\)\(1\)](#), and [5 U.S.C. §553\(a\)\(2\)](#).
4. Are subject to penalties and the criminal provisions of the Internal Revenue Code while acting as “public officers”. Both [26 U.S.C. §6671\(b\)](#) and [26 U.S.C. §7343](#) define “person” as an officer of a corporation, and that corporation is the federal government, which is defined in [28 U.S.C. §3002\(15\)\(A\)](#) as a federal corporation.
5. Are withholding agents who are liable under [26 U.S.C. §1461](#), because they are nonresident aliens who must withhold kickbacks from government payments called “U.S. sources” and send them to the IRS.
6. Are “transferees” and “fiduciaries” over federal payments under [26 U.S.C. §§6901](#) and 6903.

A picture is worth a thousand words. Below is a diagram showing the condition of those who are employed by private employers and who have consented to participate in the federal tax system by completing an IRS Form W-4. This diagram shows graphically the relationships established by filling out the IRS Form W-4 and signing it under penalty of perjury.

1 **Figure 1: Employment arrangement of those involved in a "trade or business"**



2

3 **NOTES ON ABOVE DIAGRAM:**

1. The I.R.C. Subtitle A income tax is NOT implemented through public law or positive law, but primarily through private law. Private law always supersedes enacted positive law because no court or government can interfere with your right to contract. See Article 1, Section 10 of the Constitution for the proof. The W-4 is a contract, and the United States has jurisdiction over its own property and employees under Article 4, Section 3, Clause 2, wherever they may reside, including in places where it has no legislative jurisdiction. The W-4 you signed is a private contract that makes you into a federal employee, and neither the state nor the federal government may interfere with the private right to contract. [26 C.F.R. §31.3402\(p\)-1](#) identifies the W-4 as an “agreement”, which is a contract. It doesn’t say that on the form, because your covetous government doesn’t want you to know you are signing a contract by submitting a W-4.
2. The “tax” is not paid by you, but by your “straw man”, who is a federal “public officer” engaged in a “trade or business” as defined in [26 U.S.C. §7701\(a\)\(26\)](#). His workplace is the “District of Columbia” under [26 U.S.C. §7701\(a\)\(39\)](#), [26 U.S.C. §7408\(d\)](#), and Federal Rule of Civil Procedure 17(b). That “public officer” you have volunteered to represent is working as a federal “employee” who is part of the United States government, which is defined as a federal corporation in [28 U.S.C. §3002\(15\)\(A\)](#). In that sense, the “tax” is indirect, because you don’t pay it, but your straw man, who is a “public officer”, pays it to your “employer”, the federal government, which is a federal corporation.
3. Because you are a federal “employee” and you work for a federal corporation, then you are acting as an “officer or employee of a federal corporation” and you:
  - 3.1. Are the proper subject of the penalty statutes, as defined under [26 U.S.C. §6671\(b\)](#).
  - 3.2. Are the proper subject of the criminal provisions of the Internal Revenue Code found in [26 U.S.C. §7343](#).
  - 3.3. May have the code enforced against you without implementing regulations as required by [44 U.S.C. §1505\(a\)\(1\)](#) and [5 U.S.C. §553\(a\)\(2\)](#)
4. The “activity” of performing a “trade or business” is only “taxable” when executed in the statutory “United States\*\*” (federal zone), which is defined as in [26 U.S.C. §7701\(a\)\(9\)](#) and [26 U.S.C. §7701\(a\)\(10\)](#) and [4 U.S.C. §110\(d\)](#). See [26 U.S.C. §864](#) and this section for evidence.
5. Those who file form 1040 instead of the proper form 1040NR provide evidence under penalty of perjury that they are statutory “U.S. persons” (see [26 U.S.C. §7701\(a\)\(30\)](#)) who are domiciled in the statutory “United States\*\*” (federal zone). The IRS Published Products Catalog (2003), Document 7130 says the form can only be used for “citizens or residents” of the statutory “United States\*\*” (federal zone).

If you would like to know more about the above diagram and the details behind what a “trade or business” is, please consult the following memorandum of law:

*The “Trade or Business” Scam*, Form #05.001

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

If you are a “nonresident alien” with no income originating from the statutory “United States\*\*” (federal zone) under [26 U.S.C. §871](#), then you aren’t even mentioned in the I.R.C. as a subject for any Internal Revenue tax. It was shown starting in section 4.11 of the *Great IRS Hoax* book that nearly all Americans living in states of the Union are “non-resident non-persons”, and so the above analysis only applies to you if you work for the government on federal territory or in a place “expressly authorized” by Congress under 4 U.S.C. §72. To summarize the findings of this section then, those who are “nonresident aliens” with no “sources of income” connected with a public office (which is defined as a “trade or business” in [26 U.S.C. §7701\(a\)\(26\)](#)) in the District of Columbia or in places “expressly authorized” under 4 U.S.C. §72 and who never signed a usually FALSE W-4 illegally electing themselves into public office:

1. Are not engaged in an excise taxable activity under the I.R.C. Subtitle A.
2. May not lawfully have any Information Returns, such as a W-2, 1098, or 1099 filed against them. See:
  - 2.1. *Correcting Erroneous IRS Form 1042’s*, Form #04.003  
<http://sedm.org/Forms/FormIndex.htm>
  - 2.2. *Correcting Erroneous IRS Form 1098’s*, Form #04.004  
<http://sedm.org/Forms/FormIndex.htm>
  - 2.3. *Correcting Erroneous IRS Form 1099’s*, Form #04.005  
<http://sedm.org/Forms/FormIndex.htm>
  - 2.4. *Correcting Erroneous IRS Form W-2’s*, Form #04.006  
<http://sedm.org/Forms/FormIndex.htm>

1 3. Don't earn any "gross income":

2 Title 26: Internal Revenue

3 [PART 1—INCOME TAXES](#)

4 [nonresident alien individuals](#)

5 § 1.872-2 Exclusions from gross income of nonresident alien individuals.

6 (f) *Other exclusions.*

7 *Income which is from sources without[outside] the United States [federal zone, see 26 U.S.C. §7701(a)(9)*  
8 *and (a)(10) and 4 U.S.C. §110(d)], as determined under the provisions of sections 861 through 863, and the*  
9 *regulations thereunder, is not included in the gross income of a nonresident alien individual unless such*  
10 *income is effectively connected for the taxable year with the conduct of a trade or business in the United*  
11 *States by that individual.* To determine specific exclusions in the case of other items which are from sources  
12 within the United States, see the applicable sections of the Code. For special rules under a tax convention for  
13 determining the sources of income and for excluding, from gross income, income from sources without the  
14 United States which is effectively connected with the conduct of a trade or business in the United States, see the  
15 applicable tax convention. For determining which income from sources without the United States is effectively  
16 connected with the conduct of a trade or business in the United States, see section 864(c)(4) and §1.864-5.

17 4. Their entire estate is a "foreign estate" under [26 U.S.C. §7701\(a\)\(31\)](#) not subject to the I.R.C.

18 [TITLE 26 > Subtitle F > CHAPTER 79 > § 7701](#)

19 [§ 7701. Definitions](#)

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

22 (31) Foreign estate or trust

23 (A) Foreign estate

24 The term "foreign estate" means an estate the income of which, from sources without the United States which is  
25 not effectively connected with the conduct of a trade or business within the United States, is not includible in  
26 gross income under subtitle A.

27 5. Are a "nontaxpayer" not subject to the I.R.C. All portions within the I.R.C., IRS Publications, and the Internal  
28 Revenue Manual (I.R.M.) that refer to "taxpayers" don't refer to you and can safely be disregarded and disobeyed.

29 "Revenue Laws relate to taxpayers [officers, employees, and elected officials of the Federal Government] and  
30 not to non-taxpayers [American Citizens/American Nationals not subject to the exclusive jurisdiction of the  
31 Federal Government]. The latter are without their scope. No procedures are prescribed for non-taxpayers and  
32 no attempt is made to annul any of their Rights or Remedies in due course of law."

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

34 6. If any money was withheld from your pay by either a business or a financial institution, then you are due for a refund  
35 of all withholding.

36 7. Cannot file an IRS Form 1040, because EVERYTHING that goes on that form is treated as "effectively connected with  
37 a trade or business". That form is for "aliens", and not either "nonresident aliens" or "non-resident non-persons", as  
38 was shown in section 5.5.2 of the [Great IRS Hoax](#).

39 8. Cannot lawfully have any CTR's, or "Currency Transaction Reports", prepared against you by any financial institution  
40 for withdrawals in excess of \$10,000. Only those "effectively connected with a trade or business in the United States"  
41 can be the proper subject of CTR's. See:

42 <http://famguardian.org/Subjects/MoneyBanking/Articles/FedTransReptnRequirements.htm>

43 9. Cannot be the subject of federal jurisdiction in the context of Internal Revenue Code, Subtitle A because not a statutory  
44 "person".

45 10. Cannot be treated as a federal statutory "employee" under either 26 U.S.C. §3401(c) or 5 U.S.C. §2105(a).

46 11. Cannot lawfully be penalized or criminally prosecuted by the IRS for failure to volunteer to participate in the federal  
47 tax system.

48 Based on the above table, ALL of the revenues collected by the IRS under the authority of Subtitle A only apply to those  
49 physically present within the federal zone as aliens or those domiciled there and abroad and are simply donations, not

lawful “taxes” for people in states of the Union who are not federal public officers. In particular, Subtitle A of the Internal Revenue Code applies ONLY within the statutory “United States\*\*” (federal zone), as is revealed by the definition of “United States” found in [26 U.S.C. §7701\(a\)\(9\)](#) and (a)(10) and 4 U.S.C. §110(d). The IRS has been involved in criminal extortion in the case of persons domiciled in states of the Union who are not engaged in a “trade or business” because they are:

1. Deliberately and systematically deceiving Americans about the requirements of the I.R.C. using their publications, as was shown in section 3.18 of the *Great IRS Hoax*. They are doing so by not explaining what “United States” means in their publications and by not emphasizing that Subtitle A of the Internal Revenue Code is entirely voluntary and not a “tax”, but a donation. They also are trying to make most Americans falsely believe that the two jurisdictions identified above are equivalent, and that all Americans living in states of the Union are “citizens of the United States” or “residents” under federal law, when in fact they are not. Americans who make false statements on their tax returns go to jail for 3 years minimum, but the I.R.S. does it with impunity every day in their publications and the federal judiciary refuses to hold them accountable for this constructive fraud.
2. Applying Subtitles A through C of the Internal Revenue Code to persons in states of the Union over which they have no jurisdiction.
3. Are enforcing I.R.C. Subtitle A against other than federal “employees”. There are no implementing regulations authorizing enforcement against other than federal “employees” as required by [44 U.S.C. §1505\(a\)\(1\)](#), [26 C.F.R. §601.702\(a\)\(2\)\(ii\)](#), and [5 U.S.C. §553\(a\)\(2\)](#).
4. Enforcing that which is not “law” for that specific group and is therefore unenforceable. The Internal Revenue Code is not “law” for “nontaxpayers”, as you will find out later in section 5.4.3 of the *Great IRS Hoax*, Form #11.302, and therefore may not be enforced against anyone absent explicit, informed, voluntary consent. This consent is what makes them subject to it and “taxpayers”.

#### **6.4 U.S. Supreme Court agrees that income tax is a tax on the GOVERNMENT and not PRIVATE people**

Below are some authorities we have found proving that I.R.C. Subtitles A and C are for income taxes on the GOVERNMENT and not private human beings:

1. All the powers of the government, including civil enforcement powers, require individual agency on behalf of the government by the object of the enforcement. Private people do not have such agency, and therefore cannot be statutory “taxpayers”.

*“All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals.”*  
[*Osborn v. Bank of U.S.*, [22 U.S. 738](#) (1824)]

2. Congress has no legislative power within a state and cannot establish franchises such as a “trade or business” there:

“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 a 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 [e.g. LICENSE, using a Social Security Number (SSN) or Taxpayer Identification Number (TIN)] a trade or business [per 26 U.S.C. §7701(a)(26)] 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) ]

3. The income tax extends ONLY to all places where the GOVERNMENT rather than the TERRITORY served BY the



government extends. The cite below explains why “United States” is legally defined in 26 U.S.C. §7701(a)(9) and (a)(10) as the District of Columbia and NO part of any state of the Union, as we point out in the next section.

*“Loughborough v. Blake, 5 Wheat. 317, 5 L.Ed. 98, was an action of trespass or, as appears by the original record, replevin, brought in the circuit court for the District of Columbia to try the right of Congress to impose a direct tax for general purposes on that District. 3 Stat. at L. 216, chap. 60. It was insisted that Congress could act in a double capacity: in one as legislating [182 U.S. 244, 260] for the states; in the other as a local legislature for the District of Columbia. In the latter character, it was admitted that the power of levying direct taxes might be exercised, but for District purposes only, as a state legislature might tax for state purposes; but that it could not legislate for the District under art. 1, 8, giving to Congress the power 'to lay and collect taxes, imposts, and excises,' which 'shall be uniform throughout the United States,' inasmuch as the District was no part of the United States [described in the Constitution]. It was held that the grant of this power was a general one without limitation as to place, and consequently extended to all places over which the government extends; and that it extended to the District of Columbia as a constituent part of the United States.”*  
[Downes v. Bidwell, 182 U.S. 244 (1901)]

In support of our hypothesis:

3.1. Note the phrase: "WHEREVER THE GOVERNMENT EXTENDS" and contrast with "WHEREVER THE TERRITORY EXTENDS".

3.2. Note the phrase “"WITHOUT LIMITATION AS TO PLACE", which can only mean contract and debt, because neither are limited as to place:

*Debt and contract [franchise agreement, in this case] are of no particular place.*  
*Locus contractus regit actum.*  
*The place of the contract [franchise agreement, in this case] governs the act.*  
[Bouvier's Maxims of Law, 1856;  
SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.html>]

Federal Rule of Civil Procedure 17 governs what is called “choice of law” in civil disputes within federal courts. Consistent with the above, Federal Rule of Civil Procedure 17(b) says that the law that applies to all civil disputes in federal court is the law from the DOMICILE of the party:

[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.

[Federal Rule of Civil Procedure 17(b)]

Those domiciled OUTSIDE of federal territory and the statutory “United States” cannot quote federal civil law in disputes in federal court. The only exception given above is if they are representing a legislatively foreign corporation, such as a federal corporation, in which case the law that applies is the law of the DOMICILE of the foreign corporation rather than the OFFICER’S domicile. Hence, those within states of the Union acting as officers of the national government, whether officers of a federal corporation, federal government workers, or federal public officers, can cite ONLY the laws of the United States government in the context of their official duties in a federal civil court. The authority for doing so is Article 4, Section 3, Clause 2 of the United States Constitution

United States Constitution  
Article 4, Section 3, Clause 2

*The Congress shall have Power to dispose of and **make all needful Rules and Regulations respecting the Territory or other Property** belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.*

The above provision empowers congress to make all INTERNAL rules for operating the GOVERNMENT. The INTERNAL Revenue Code and the INTERNAL Revenue Service that enforces it both count as JUST such a rule.

*"The Constitution permits Congress to dispose of and to make all needful rules and regulations respecting the territory or other property belonging to the United States. This power applies as well to territory belonging to the United States within the States, as beyond them. It comprehends all the public domain, wherever it may be. The argument is, that the power to make 'ALL needful rules and regulations' 'is a power of legislation,' 'a full legislative power;' 'that it includes all subjects of legislation in the territory,' and is without any limitations, except the positive prohibitions which affect all the powers of Congress. Congress may then regulate or prohibit slavery upon the public domain within the new States, and such a prohibition would permanently affect the capacity of a slave, whose master might carry him to it. And why not? Because no power has been conferred on Congress. This is a conclusion universally admitted. But the power to 'make rules and regulations respecting the territory' is not restrained by State lines, nor are there any constitutional prohibitions upon its exercise in the domain of the United States within the States; and whatever rules and regulations respecting territory Congress may constitutionally make are supreme, and are not dependent on the situs of 'the territory.'"*

*[Dred Scott v. Sandford, 60 U.S. 393, 509-510 (1856)]*

## **6.5 "United States" in a geographical sense ONLY means federal territory and excludes constitutional states of the Union**

The following definitions imply that the United States in the Internal Revenue Code means federal territories and the same "United States\*" mentioned in the previous section:

[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.

The term "the States" also implies the following:

TITLE 4 - FLAG AND SEAL, SEAT OF GOVERNMENT, AND **THE STATES**  
CHAPTER 4 - **THE STATES**  
[Sec. 110. Same; definitions](#)

(d) The term "State" includes any [Territory](#) or possession of the United States.

Based on the rules of statutory construction, we are not allowed to PRESUME anything OTHER than that which is expressly specified and a failure to observe this rule is a violation of due process of law, a violation of the constitutional requirement for reasonable notice, and a tort:

*"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 \(2000\)](#)]

Note the following important facts:

1. We are NOT implying that the GEOGRAPHIC sense is the ONLY sense in which the term "United States" is used in Internal Revenue Code, Subtitles A and C.
2. The only sense OTHER than the "GEOGRAPHIC SENSE" in which the term "United States" can be or is used within Internal Revenue Code, Subtitles A and C is the NATIONAL GOVERNMENT as a legal person, a federal corporation, and a statutory but not constitutional "person".
3. Based on the rules of statutory construction, the only time when the GEOGRAPHIC sense can logically be implied is when the term "United States" is PRECEDED by the word "geographic".

Note that if you don't clarify the above when you are litigating this issue, you may be told that your argument is frivolous per Becraft v. Nelson (In re Becraft), 885 F.2d. 547, 549 n2 (9th Circuit).

#### **6.6 Lack of enforcement regulations in Internal Revenue Code, Subtitles A and C imply that enforcement provisions only apply to government workers<sup>34</sup>**

*"Our records indicate that the Internal Revenue Service has not incorporated by reference [as required by Implementing Regulation 26 C.F.R. §601.702(a)(1)] a requirement to make an income tax return."*  
[Emphasis added]  
[SEDM Exhibit #05.005;  
SOURCE: <http://sedm.org/Exhibits/ExhibitIndex.htm>]

To determine who the intended audience is of an enforcement statute or regulation, it is very important to look at whether or not it has implementing enforcement regulations. This section will expand upon the notice and publication process for federal regulations to pinpoint the exact steps by which enforcement authority is obtained by Executive Branch agencies, and will, based upon the method of publication, describe who can lawfully be the specific targets of the enforcement. We will prove that the enforcement provisions of the Internal Revenue Code have no implementing regulations and that therefore, the ONLY lawful audience for enforcement is officers of the government.

The Federal Register Act, 44 U.S.C. §1505 et seq., and the Administrative Procedures Act, 5 U.S.C. §553 et seq, both describe laws which may be enforced as "laws having general applicability and legal effect". Laws which have general applicability and legal effect are laws that apply to persons OTHER than those in the government or to the public at large. To wit, read the following, which is repeated in slightly altered form in 5 U.S.C. §553(a):

TITLE 44 > CHAPTER 15 > § 1505  
§ 1505. Documents to be published in Federal Register

*(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress. There shall be published in the Federal Register—*

*[. . .]*

*For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.*

<sup>34</sup> For further details, see:

1. *IRS Due Process Meeting Handout*, Form #03.008; <http://sedm.org/Forms/FormIndex.htm>.
2. *Federal Enforcement Authority Within States of the Union*, Form #05.032; <http://sedm.org/Forms/FormIndex.htm>.

The requirement for “reasonable notice” or “due notice” as part of Constitutional due process extends not only to statutes and regulations AFTER they are enacted into law, such as when they are enforced in a court of law, but also to the publication of proposed statutes and rules/regulations BEFORE they are enacted and subsequently enforced by agencies within the Executive Branch. The Federal Register is the ONLY approved method by which the public at large domiciled in “States of the Union” are provided with “reasonable notice” and an opportunity to comment publicly on new or proposed statutes OR rules/regulations which will directly affect them, and which may be enforced directly against them.

[TITLE 44 > CHAPTER 15 > § 1508](#)  
[§ 1508. Publication in Federal Register as notice of hearing](#)

**A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or which may otherwise properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia, except in cases where notice by publication is insufficient in law, when the notice is published in the Federal Register at such a time that the period between the publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard is—**

Neither statutes nor the rules/regulations which implement them may be directly enforced within states of the Union against the general public unless and until they have been so published in the Federal Register.

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)  
[§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in Federal Register as notice of hearing](#)

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

[26 C.F.R. §601.702](#) Publication and public inspection

(a)(2)(ii) Effect of failure to publish.

*Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.***

The only exceptions to the requirement for publication in the Federal Register of the statute and the implementing regulations are the groups specifically identified by Congress as expressly exempted from this requirement, as follows:

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).

All of the above requirements are also mentioned in 5 U.S.C. §301 (federal employees), which establishes that the head of an Executive or military department may prescribe regulations for the internal government of his department.

[TITLE 5 > PART I > CHAPTER 3 > § 301](#)  
[§ 301. Departmental regulations](#)

*The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.*

Based on the above, the burden of proof imposed upon the government at any due process meeting in which it is enforcing any provision is to produce at least ONE of the following TWO things:

- 1 1. Evidence signed under penalty of perjury by someone with personal, first-hand knowledge, proving that you are a  
2 member of one of the three groups specifically exempted from the requirement for implementing regulations, as  
3 identified above.  
4 2. Evidence of publication in the Federal Register of BOTH the statute AND the implementing regulation which they  
5 seek to enforce against you.

6 Without satisfying one of the above two requirements, the government is illegally enforcing federal law and becomes liable  
7 for a constitutional tort. For case number two above, the federal courts have said the following enlightening things:

8 “...for federal tax purposes, federal regulations [rather than the statutes ONLY] govern.”  
9 [Dodd v. United States, 223 F.Supp. 785]  
10

11 “When enacting §7206(1) Congress undoubtedly knew that the Secretary of the Treasury is empowered to  
12 prescribe all needful rules and regulations for the enforcement of the internal revenue laws, so long as they  
13 carry into effect the will of Congress as expressed by the statutes. Such regulations have the force of law. **The**  
14 **Secretary, however, does not have the power to make law**, Dixon v. United States, supra.”  
15 [United States v. Levy, 533 F.2d. 969 (1976)]  
16

17 “An administrative regulation, of course, is not a “statute.” While in practical effect regulations may be called  
18 “little laws,” 7 they are at most but offspring of statutes. Congress alone may pass a statute, and the Criminal  
19 Appeals Act calls for direct appeals if the District Court's dismissal is based upon the invalidity or construction  
20 of a statute. See United States v. Jones, 345 U.S. 377 (1953). This Court has always construed the Criminal  
21 Appeals Act narrowly, limiting it strictly “to the instances specified.” United States v. Borden Co., 308 U.S. 188,  
22 192 (1939). See also United States v. Swift & Co., 318 U.S. 442 (1943). Here the statute is not complete by  
23 itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the  
24 effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of  
25 origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying  
26 language of the label itself, and assign the resulting tags to their respective geographical areas. Once  
27 promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and  
28 violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the  
29 congressional language. **The result is that neither the statute nor the regulations are complete without the**  
30 **other, and only together do they have any force. In effect, therefore, the construction of one necessarily**  
31 **involves the construction of the other.”**  
32 [U.S. v. Mersky, 361 U.S. 431 (1960)]  
33

34 “...the Act's **civil and criminal penalties attach only upon violation of the regulation** promulgated by the  
35 Secretary; **if the Secretary were to do nothing, the Act itself would impose no penalties on anyone**...The  
36 Government urges that since only those who violate these regulations [not the Code] may incur civil or  
37 criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad  
38 authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and  
39 that when so tested they are valid.”  
40 [Calif. Bankers Assoc. v. Shultz, 416 U.S. 21, 44, 39 L.Ed.2d. 812, 94 S.Ct. 1494]  
41

42 “Although the relevant statute **authorized** the Secretary to impose such a duty, his implementing regulations did  
43 not do so. Therefore we held that **there was no duty** to disclose...”  
44 [United States v. Murphy, 809 F.2d. 142, 1431]  
45

46 “Failure to adhere to agency regulations [by the IRS or other agency] may amount to denial of due process if  
47 regulations are required by constitution or statute...”  
48 [Curley v. United States, 791 F.Supp. 52]

49 Another very interesting observation is that the federal courts have essentially ruled that I.R.C. Subtitle A pertains  
50 exclusively to government employees, agents, and officers, when they held:

51 “Federal income tax regulations governing filing of income tax returns do not require Office of Management  
52 and Budget control numbers because **requirement to file tax return is mandated by statute, not by regulation.**”  
53 [U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290 , affirmed 976 F.2d. 727, certiorari denied 113 S.Ct. 1659,  
54 507 U.S. 1010, 123 L.Ed.2d. 278]

55 Since there are no implementing regulations for most federal tax enforcement, the statutes which establish the requirement  
56 are only directly enforceable against those who are members of the groups specifically exempted from the requirement for



1 implementing regulations published in the Federal Register as described above. This is also consistent with the statutes  
2 authorizing enforcement within the I.R.C. itself found in 26 U.S.C. §6331, which say on the subject the following:

3 26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes  
4 [Sec. 6331](#). Levy and distraint

5 (a) Authority of Secretary

6 *If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand,*  
7 *it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the*  
8 *expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under*  
9 *section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of*  
10 *such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of*  
11 *the United States, the District of Columbia, or any agency or instrumentality of the United States or the*  
12 *District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such*  
13 *officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in*  
14 *jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon*  
15 *failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period*  
16 *provided in this section.*

17 With respect to the Internal Revenue Code specifically, we have searched for enforcement regulations and found that:

- 18 1. There are no implementing regulations for the enforcement provisions of the Internal Revenue Code, Subtitles A and  
19 C.  
20 2. Without such enforcement regulations, the provisions cited can and do apply ONLY to government statutory  
21 “employees”, to include:  
22 2.1. A military or foreign affairs function of the United States. [5 U.S.C. §553\(a\)\(1\)](#) .  
23 2.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. [5](#)  
24 [U.S.C. §553\(a\)\(2\)](#) .  
25 2.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. [44 U.S.C. §1505\(a\)\(1\)](#).

26 We have tabulated our results to make them usable against the government in the following section. You can use the  
27 following section at an IRS deposition against an IRS agent to give them the opportunity to PROVE that there ARE  
28 implementing regulations and therefore, that the enforcement provisions apply to PRIVATE, non-governmental people  
29 such as yourself.

**Table 7: IRS Agent Worksheet**

Tax the IRS says I am liable for and the I.R.C. section number where imposed: \_\_\_\_\_

Tax	Sub title	Tax Imposed Statute/ regulation	Liability statute/ regulation	Enforcing agency	ENFORCEMENT STATUTE AND ACCOMPANYING REGULATIONS			
					Assessment statute/ regulation	Record keeping	Collection statute/ regulation	Penalty statute/ regulation
Income tax	A	<a href="#">26 U.S.C. §1</a> 26 C.F.R. §1.1-1	26 U.S.C. § 26 C.F.R. §	IRS	<a href="#">26 U.S.C. §6201(a)(1)</a> 26 C.F.R. §1.	No statute 26 C.F.R. §1.	<a href="#">26 U.S.C. §6331</a> 26 C.F.R. §1.	<a href="#">26 U.S.C. §6672</a> 26 C.F.R. §1.
Estate and Gift Taxes	B	<a href="#">26 U.S.C. §2001</a> 26 C.F.R. §	<a href="#">26 U.S.C. §2002</a> (executor) 26 C.F.R. §	IRS	<a href="#">26 U.S.C. §6201(a)(1)</a> 26 C.F.R. §1.	No statute	<a href="#">26 U.S.C. §6331</a> 26 C.F.R. §	<a href="#">26 U.S.C. §6672</a> 26 C.F.R. §
Social Security Tax	C	<a href="#">26 U.S.C. §3101</a> 26 C.F.R. §	26 U.S.C. § 26 C.F.R. §	IRS	<a href="#">26 U.S.C. §6201(a)(1)</a> 26 C.F.R. §31.	No statute 26 C.F.R. §31.	<a href="#">26 U.S.C. §6331</a> 26 C.F.R. §31.	<a href="#">26 U.S.C. §6672</a> 26 C.F.R. §31.
Employment Taxes	C	<a href="#">26 U.S.C. §3401</a> 26 C.F.R. §	26 U.S.C. § 26 C.F.R. §	IRS	<a href="#">26 U.S.C. §6201(a)(1)</a> 26 C.F.R. §31.	No statute 26 C.F.R. §31.	<a href="#">26 U.S.C. §6331</a> 26 C.F.R. §31.	<a href="#">26 U.S.C. §6672</a> 26 C.F.R. §31.
Insurance policies of foreign insurers	D	<a href="#">26 U.S.C. §4371</a> 26 C.F.R. §	<a href="#">26 U.S.C. §4374</a> 26 C.F.R. §	IRS	<a href="#">26 U.S.C. §6201(a)(1)</a> 26 C.F.R. §1.	None	<a href="#">26 U.S.C. §6331</a> No regulations	
Wagering tax	D	<a href="#">26 U.S.C. §4401(a)</a> 26 C.F.R. §	<a href="#">26 U.S.C. §4401(c)</a> 26 C.F.R. §	BATF	<a href="#">26 U.S.C. §6201(a)(1)</a> <a href="#">27 C.F.R. §70.71</a>	<a href="#">26 U.S.C. §4403</a>	<a href="#">26 U.S.C. §6331</a> <a href="#">27 C.F.R. §70.51</a>	<a href="#">26 U.S.C. §6672</a> <a href="#">27 C.F.R. §70.96</a> thru-§70.103 27 C.F.R. §70.509, 610
Distilled spirits	E	<a href="#">26 U.S.C. §5001(a)(1)-(a)(2)</a>	<a href="#">26 U.S.C. §5005</a> 26 U.S.C. §5043(a)(1)(A)	BATF	<a href="#">26 U.S.C. §6201(a)(2)</a> <a href="#">27 C.F.R. §70.71</a>	<a href="#">26 U.S.C. §5114(a)(1)</a> <a href="#">26 U.S.C. §5124(a)</a>	<a href="#">26 U.S.C. §6331</a> <a href="#">27 C.F.R. §70.51</a>	<a href="#">26 U.S.C. §6672</a> <a href="#">27 C.F.R. §70.96</a> thru-§70.103 27 C.F.R. §70.509, 610
Tobacco tax	E	<a href="#">26 U.S.C. §5701</a>	<a href="#">26 U.S.C. §5703(a)</a>	BATF	<a href="#">26 U.S.C. §6201(a)(2)</a> <a href="#">27 C.F.R. §</a>	<a href="#">26 U.S.C. §5741</a>	<a href="#">26 U.S.C. §6331</a> <a href="#">27 C.F.R. §</a>	<a href="#">26 U.S.C. §6672</a> <a href="#">27 C.F.R. §70.96</a> thru-§70.103 27 C.F.R. §70.509,

Tax	Sub title	Tax Imposed Statute/ regulation	Liability statute/ regulation	Enforcing agency	ENFORCEMENT STATUTE AND ACCOMPANYING REGULATIONS			
					Assessment statute/ regulation	Record keeping	Collection statute/ regulation	Penalty statute/ regulation
					<a href="#">§70.71</a>		<a href="#">§70.51</a>	610

**NOTES:**

1. The only “persons” liable for penalties related to ANY tax are federal corporations or their employees.
2. 26 U.S.C. §6201 is the only statute authorizing assessment instituted by the Secretary, and this assessment may only be accomplished under 6201(a)(2) *for taxes payable by stamp* and not on a return, all of which are tobacco and alcohol taxes.
3. The only statutory collection activity authorized is under 26 U.S.C. §§6331 and 6331(a) of this section only authorizes levy against elected or appointed officers of the U.S. government. The only other type of collection that can occur must be the result of a court order and NOT either a Notice of Levy or a Notice of Seizure.

26 U.S.C.,  
Subchapter D - Seizure of Property for Collection of Taxes  
[Sec. 6331](#), Levy and distraint

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section [6334](#)) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

4. The only IRS agents who are authorized to execute any of the enforcement activity listed above must carry a pocket commission which designates them as “E” for enforcement rather than “A” for administrative.
5. For the purposes of all taxes above, the term “employee” is defined as follows:

26 U.S.C. §3401(c)

Employee

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

1 *26 C.F.R. §31.3401(c)-1 Employee: "...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a [federal] State,*  
2 *Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The*  
3 *term 'employee' also includes an officer of a corporation."*  
4

---

5 *8 Federal Register, Tuesday, September 7, 1943, §404.104, pg. 12267*

6 ***Employee:*** *"The term employee specifically includes officers and employees whether elected or appointed, of the United States, a state, territory, or political*  
7 *subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing."*

**6.7 “Resident” means a public officer contractor within the I.R.C.**

Most people falsely PRESUME that the word “resident” within the Internal Revenue Code is associated with a geographic place. This presumption is false because:

1. The word “resident” is nowhere associated with a geographic place within the I.R.C. It is therefore a violation of due process of law to PRESUME that it is.
2. As we repeatedly point out in the following document, the I.R.C. Subtitles A through C are a franchise, and that all franchises are contracts or agreements:

The “Trade or Business” Scam, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>

3. There is a maxim of law that debt and contract are independent of place.

*Debitum et contractus non sunt nullius loci.*

*Debt and contract [franchise agreement, in this case] are of no particular place.*

*Locus contractus regit actum.*

*The place of the contract [franchise agreement, in this case] governs the act.*

*[Bouvier’s Maxims of Law, 1856;*

*SOURCE: <http://famguardian.org/Publications/BouvierMaximsOfLaw/BouviersMaxims.htm>]*

Consistent with the above, the Treasury Regulations at one time admitted the above indirectly as follows:

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

*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.***

*[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]*

*[SOURCE: <http://famguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>]*

Notice the language above:

*“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.”*

This is a tacit admission that the status of BEING a “resident” has nothing to do with a geographic place and instead is a FRANCHISE STATUS which is created by the coincidence of the grant of a “congressionally created right” or “public right” AND your consent to adopt the status and franchise PRIVILEGES associated with that right.

Therefore, the ONLY way one can be a statutory “resident” is to be LAWFULLY engaged in a statutory “trade or business”, which is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”.

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

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

*(26) Trade or business*

*“The term ‘trade or business’ includes the performance of the functions of a public office.”*



1 Why do they do this? Because ALL PUBLIC OFFICES are domiciled in the District of Columbia:

2 [TITLE 4 > CHAPTER 3 > § 72](#)  
3 [Sec. 72. - Public offices; at seat of Government](#)

4 *All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere,*  
5 *except as otherwise expressly provided by law*

6 Hence, by being associated with a public office, your legal identity is kidnapped under the authority of Federal Rule of  
7 Civil Procedure 17(b) and transported to the District of Columbia, which in turn is the ONLY place expressly included in  
8 the definition of “United States” within the Internal Revenue Code.

9 [TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701. \[Internal Revenue Code\]](#)  
10 [Sec. 7701. - Definitions](#)

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

13 *(9) United States*

14 *The term "United States" when used in a geographical sense includes only the [States](#) and the District of*  
15 *Columbia.*

16 *(10) State*

17 *The term "State" shall be construed to include the District of Columbia, where such construction is necessary to*  
18 *carry out provisions of this title.*

19 Pursuant to the rules of statutory construction, that which is not EXPRESSLY included must be conclusively presumed to  
20 be purposefully excluded. Hence, states of the Union are purposefully excluded from being within the “United States” in a  
21 geographic sense:

22 *“Expressio unius est exclusio alterius. A maxim of statutory interpretation meaning that **the expression of one***  
23 ***thing is the exclusion of another.** Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d. 321, 325; Newblock v. Bowles,*  
24 *170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons***  
25 ***or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be***  
26 ***inferred.** Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects*  
27 *of a certain provision, other exceptions or effects are excluded.”*  
28 *[Black’s Law Dictionary, Sixth Edition, p. 581]*

29 Note that all income taxes are based upon domicile, as in the case of the I.R.C. Subtitle A through C “income tax”.  
30 However, the domicile is INDIRECT rather than direct. The PUBLIC OFFICE is the thing domiciled in the Federal Zone  
31 and not the human being filling it, who can geographically be a “nonresident”.

32 The other noteworthy thing about this SCAM is that the 26 C.F.R. §301.7701-5 regulation cited above encompasses ALL  
33 “persons” within the I.R.C., and NOT just corporations and partnerships. It expressly mentions only corporations and  
34 partnerships, but in fact, these ARE the only entities EXPRESSLY included within the definition of “person” for the  
35 purposes of BOTH civil AND criminal jurisdiction of the I.R.C., and hence, describes ALL “persons” within the I.R.C.

36 [TITLE 26 > Subtitle F > CHAPTER 68 > Subchapter B > PART I > § 6671](#)  
37 [§ 6671. Rules for application of assessable penalties](#)

38 *(b) Person defined*

39 *The term “person”, as used in this subchapter, **includes an officer or employee of a corporation, or a member***  
40 ***or employee of a partnership,** who as such officer, employee, or member is under a duty to perform the act in*  
41 *respect of which the violation occurs.*

42  
43 [TITLE 26 > Subtitle F > CHAPTER 75 > Subchapter D > § 7343](#)  
44 [§7343. Definition of term “person”](#)

The term “person” as used in this chapter **includes an officer or employee of a corporation, or a member or employee of a partnership**, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

Why do they mention “partnerships” in the above definition? Because whenever you consent to occupy a public office in the U.S. government, a partnership is formed between the otherwise PRIVATE HUMAN BEING and the PUBLIC OFFICE that the person fills. THAT partnership is how the legal statutory “person” who is the proper subject of the I.R.C. is lawfully created. The problem, however, is that you CANNOT lawfully elect yourself into a public office, even with your consent. In order for a lawful election or appointment to occur, you must take a lawful oath, and only THEN can one become a lawful public officer. If there is a deviation from this procedure for creating public offices, a crime has been committed pursuant to 18 U.S.C. §912.

[TITLE 18 > PART I > CHAPTER 43 > § 912](#)  
[§ 912. Officer or employee of the United States](#)

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

Another important implication is that anyone who PRESUMES you are a “resident” is effectively “electing” you into a public office. If you don’t object to that usually false presumption, then a cage is reserved for you on the federal corporate plantation in the District of Criminals. We call this “theft and kidnapping by presumption”.

Finally, don’t go searching for the 26 C.F.R. §301.7701-5 regulation indicated in the CURRENT Code of Federal Regulations. As soon as we pointed it out on our website, it was conveniently HID and replaced with a temporary regulation. Now you know WHY it was hidden. You will have to go back to the historical versions of the regulations to find it, so please don’t contact us to tell us you can’t find it. THEY HID IT to protect their CRIMINAL racketeering enterprise. Would you expect anything less when you create a Babylon corporation in the District of Criminals, turn it into a haven for financial terrorists, and put CRIMINALS in charge of writing laws that only protect them, and which are designed to SCREW you?

## **6.8 Why it is UNLAWFUL for the I.R.S. to enforce Subtitle A of the Internal Revenue Code within states of the Union**

The federal government enjoys NO legislative jurisdiction on land within the exterior limits of a state of the Union that is not its own territory. The authorities for this fact are as follows:

1. The U.S. Supreme Court has stated repeatedly that the United States federal government is without ANY legislative jurisdiction within the exterior boundaries of a sovereign state of Union:

*"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)]*

*"It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, [247 U.S. 251, 275](#), 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation**."  
[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]*

If you meet with someone from the IRS, ask them whether the Internal Revenue Code qualifies as “legislation” within the meaning of the above rulings. Tell them you aren’t interested in court cases because judges cannot make law or create jurisdiction where none exists.

2. [40 U.S.C. §3112](#) creates a presumption that the United States government does not have jurisdiction unless it specifically accepts jurisdiction over lands within the exterior limits of a state of the Union:

TITLE 40 - PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE II - PUBLIC BUILDINGS AND WORKS  
PART A - GENERAL  
CHAPTER 31 - GENERAL  
SUBCHAPTER II - ACQUIRING LAND  
Sec. 3112. Federal jurisdiction

(a) *Exclusive Jurisdiction Not Required.* - It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) *Acquisition and Acceptance of Jurisdiction.* - When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) *Presumption.* - It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

[SOURCE: <https://www.law.cornell.edu/uscode/text/40/3112>]

3. The Uniform Commercial Code defines the term “United States” as the District of Columbia:

*Uniform Commercial Code (U.C.C.)  
§ 9-307. LOCATION OF DEBTOR.*

(h) [Location of United States.]

*The United States is located in the District of Columbia.*

[SOURCE:

<http://www.law.cornell.edu/ucc/search/display.html?terms=district%20of%20columbia&url=/ucc/9/article9.htm#s9-307>]

4. [Article 1](#), Section 8, Clause 17 of the Constitution expressly limits the territorial jurisdiction of the federal government to the ten square mile area known as the District of Columbia. Extensions to this jurisdiction arose at the signing of the Treaty of Peace between the King of Spain and the United States in Paris France, which granted to the United States new territories such as Guam, Cuba, the Philippines, etc.
5. [4 U.S.C. §72](#) limits the exercise of all “public offices” and the application of their laws to the District of Columbia and NOT elsewhere except as expressly provided by Congress.

[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.*

6. The Internal Revenue Code Subtitle A places the income tax primarily upon a “trade or business”. The U.S. Supreme Court expressly stated that Congress may not establish or license a “trade or business” within the borders of a state of the Union and tax it.

*“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)]

7. A “trade or business” is defined as the “functions of a public office” in [26 U.S.C. §7701\(a\)\(26\)](#). See:

[The Trade or Business Scam](#), Form #05.001

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

8. The IRS and the DOJ have been repeatedly asked for the statute which “expressly extends” the “public office” that is the subject of the tax upon “trade or business” activities within states of the Union. NO ONE has been able to produce such a statute because IT DOESN’T EXIST. There is no provision of law which “expressly extends” the enforcement of Subtitle A of the Internal Revenue Code to any state of the Union. Therefore, IRS jurisdiction does not exist there.

*“**Expressio unius est exclusio alterius.** A maxim of statutory interpretation meaning that **the expression of one thing is the exclusion of another.** *Burgin v. Forbes*, 293 Ky. 456, 169 S.W.2d. 321, 325; *Newblock v. Bowles*, 170 Okl. 487, 40 P.2d. 1097, 1100. Mention of one thing implies exclusion of another. **When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be***

*inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.”*  
*[Black’s Law Dictionary, Sixth Edition, p. 581]*

9. [48 U.S.C. §1612](#) expressly extends the enforcement of the criminal provisions of the Internal Revenue Code to the Virgin Islands and is the only enactment of Congress that extends enforcement of any part of the Internal Revenue Code to any place outside the District of Columbia.
10. The U.S. Supreme Court commonly refers to states of the Union as “foreign states”. To wit:

*We have held, upon full consideration, that although under existing statutes a circuit court of the United States has jurisdiction upon habeas corpus to discharge from the custody of state officers or tribunals one restrained of his liberty in violation of the Constitution of the United States, it is not required in every case to exercise its power to that end immediately upon application being made for the writ. 'We cannot suppose,' this court has said, 'that Congress intended to compel those courts, by such means, to draw to themselves, in the first instance, the control of all criminal prosecutions commenced in state courts exercising authority within the same territorial limits, where the accused claims that he is held in custody in violation of the Constitution of the United States. The injunction to hear the case summarily, and thereupon 'to dispose of the party as law and justice require' [R. S. 761], does not deprive the court of discretion as to the time and mode in which it will exert the powers conferred upon it. That discretion should be exercised in the light of the relations existing, under our system of government, between the judicial tribunals of the Union and of the states, and in recognition of the fact that the public good requires that those relations be not disturbed by unnecessary conflict between courts equally bound to guard and protect rights secured by the Constitution. When the petitioner is in custody by state authority for an act done or omitted to be done in pursuance of a law of the United States, or of an order, process, or decree of a court or judge thereof; or where, being a subject or citizen of a foreign state, and domiciled therein, he is in custody, under like authority, for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, or order, or sanction of any foreign state, or under color thereof, the validity and effect whereof depend upon the law of nations; in such and like cases of urgency, involving the authority and operations of the general government, or the obligations of this country to, or its relations with, foreign nations, [180 U.S. 499, 502] the courts of the United States have frequently interposed by writs of habeas corpus and discharged prisoners who were held in custody under state authority. So, also, when they are in the custody of a state officer, it may be necessary, by use of the writ, to bring them into a court of the United States to testify as witnesses.' Ex parte Royall, [117 U.S. 241, 250](#), 29 S.L.Ed. 868, 871, 6 Sup.Ct.Rep. 734; Ex parte Fonda, [117 U.S. 516, 518](#), 29 S.L.Ed. 994, 6 Sup.Ct.Rep. 848; Re Duncan, [139 U.S. 449](#), 454, sub nom. Duncan v. McCall, 35 L.Ed. 219, 222, 11 Sup.Ct.Rep. 573; Re Wood, [140 U.S. 278](#), 289, Sub nom. Wood v. Bursh, 35 L.Ed. 505, 509, 11 Sup.Ct.Rep. 738; McElvaine v. Brush, [142 U.S. 155, 160](#), 35 S.L.Ed. 971, 973, 12 Sup.Ct.Rep. 156; Cook v. Hart, [146 U.S. 183, 194](#), 36 S.L.Ed. 934, 939, 13 Sup.Ct.Rep. 40; Re Frederick, [149 U.S. 70, 75](#), 37 S.L.Ed. 653, 656, 13 Sup.Ct.Rep. 793; New York v. Eno, [155 U.S. 89, 96](#), 39 S.L.Ed. 80, 83, 15 Sup.Ct.Rep. 30; Pepke v. Cronan, [155 U.S. 100](#), 39 L.Ed. 84, 15 Sup.Ct.Rep. 34; Re Chapman, [156 U.S. 211, 216](#), 39 S.L.Ed. 401, 402, 15 Sup.Ct.Rep. 331; Whitten v. Tomlinson, [160 U.S. 231, 242](#), 40 S.L.Ed. 406, 412, 16 Sup.Ct.Rep. 297; Iasigi v. Van De Carr, [166 U.S. 391, 395](#), 41 S.L.Ed. 1045, 1049, 17 Sup.Ct.Rep. 595; Baker v. Grice, [169 U.S. 284, 290](#), 42 S.L.Ed. 748, 750, 18 Sup.Ct.Rep. 323; Tinsley v. Anderson, [171 U.S. 101, 105](#), 43 S.L.Ed. 91, 96, 18 Sup.Ct.Rep. 805; Fitts v. McGhee, [172 U.S. 516, 533](#), 43 S.L.Ed. 535, 543, 19 Sup.Ct.Rep. 269; Markuson v. Boucher, [175 U.S. 184](#), 44 L.Ed. 124, 20 Sup.Ct.Rep. 76.  
*[State of Minnesota v. Brundage, 180 U.S. 499 (1901)]**

11. [The Federal Register Act, 44 U.S.C. §1505\(a\)](#), and the [Administrative Procedures Act, 5 U.S.C. §553\(a\)](#) both require that when a federal agency wishes to enforce any provision of statutory law within a state of the Union, it must write proposed implementing regulations, publish them in the Federal Register, and thereby give the public opportunity for “notice and comment”. Notice that 44 U.S.C. §1508 says that the Federal Register is the official method for providing “notice” of laws that will be enforced in “States of the Union”. There are no implementing regulations authorizing the enforcement of any provision of the Internal Revenue Code within any state of the Union, and therefore it cannot be enforced against the general public domiciled within states of the Union. See the following for exhaustive proof:

**IRS Due Process Meeting Handout, Form #03.008**

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

12. Various provisions of law indicate that when implementing regulations authorizing enforcement have NOT been published in the Federal Register, then the statutes cited as authority may NOT prescribe a penalty or adversely affect rights protected by the Constitution of the United States:

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)

[§ 552. Public information; agency rules, opinions, orders, records, and proceedings§ 1508. Publication in Federal Register as notice of hearing](#)

*Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of*

persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

26 C.F.R. §601.702 Publication and public inspection

(a)(2)(ii) Effect of failure to publish.

Except to the extent that a person has actual and timely notice of the terms of any matter referred to in subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.**

13. 44 U.S.C. §1505(a) and 5 U.S.C. §553(a) both indicate that the only case where an enactment of the Congress can be enforced DIRECTLY against persons domiciled in states of the Union absent implementing regulations is for those groups specifically exempted from the requirement. These groups include:
  - 13.1. A military or foreign affairs function of the United States. 5 U.S.C. §553(a)(1).
  - 13.2. A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. 5 U.S.C. §553(a)(2).
  - 13.3. Federal agencies or persons in their capacity as officers, agents, or employees thereof. 44 U.S.C. §1505(a)(1).
14. The Internal Revenue Code itself defines and limits the term “United States” to include only the District of Columbia and nowhere expands the term to include any state of the Union. Consequently, states of the Union are not included.

TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.  
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.

15. 26 U.S.C. §7601 authorizes enforcement of the Internal Revenue Code and discovery related to the enforcement *only* within the bounds of internal revenue districts. Any evidence gathered by the IRS outside the District of Columbia is UNLAWFULLY obtained and in violation of this statute, and therefore inadmissible. See *Weeks v. United States*, 232 U.S. 383 (1914), which says that evidence unlawfully obtained is INADMISSIBLE.
16. 26 U.S.C. §7621 authorizes the President of the United States to define the boundaries of all internal revenue districts.
  - 16.1. The President delegated that authority to the Secretary of the Treasury pursuant to Executive Order 10289.
  - 16.2. Neither the President nor his delegate, the Secretary of the Treasury, may establish internal revenue districts outside of the “United States”, which is then defined in 26 U.S.C. §7701(a)(9) and (a)(10), 26 U.S.C. §7701(a)(39), and 26 U.S.C. §7408(d) to mean ONLY the District of Columbia.
  - 16.3. Congress cannot delegate to the President or the Secretary an authority within states of the Union that it does not have. Congress has NO LEGISLATIVE JURISDICTION within a state of the Union.

*“It is no longer open to question that **the general government, unlike the states**, *Hammer v. Dagenhart*, 247 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.**”*  
*[Carter v. Carter Coal Co., 298 U.S. 238, 56 S.Ct. 855 (1936)]*

17. Treasury Order 150-02 abolished all internal revenue districts *except* that of the District of Columbia.
18. IRS is delegate of the Secretary in insular possessions, as “delegate” is defined at 26 U.S.C. §7701(a)(12)(B), but NOT in states of the Union.



Based on all the above authorities:

1. The word “INTERNAL” in the phrase “INTERNAL Revenue Service” means INTERNAL to the federal government or the federal zone. This includes people OUTSIDE the federal zone but who have a domicile there, such as citizens and residents abroad coming under a tax treaty with a foreign country, pursuant to 26 U.S.C. §911. It DOES NOT include persons domiciled in states of the Union. See:

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Form #05.002

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

2. The U.S. Supreme Court has confirmed that there is *no basis* to believe that any part of the federal government enjoys any legislative jurisdiction within any state of the Union, including in its capacity as a lawmaker for the general government. This was confirmed by one attorney who devoted his life to the study of Constitutional law below:

*“§79. [ . . . ] There cannot be two separate and independent sovereignties within the same limits or jurisdiction; nor can there be two distinct and separate sources of sovereign authority within the same jurisdiction. The right of commanding in the last resort can be possessed only by one body of people inhabiting the same territory, and can be executed only by those intrusted with the execution of such authority.”*

*[Treatise on Government, Joel Tiffany, p. 49, Section 78;*

*SOURCE: <http://famguardian.org/Publications/TreatiseOnGovernment/TreatOnGovt.pdf>]*

Our public dis-servants have tried to systematically destroy this separation using a combination of LIES, PROPAGANDA in unreliable government publications, and the abuse of “words of art” in the void for vagueness “codes” they write in order to hunt and trap and enslave you like an animal.

*But this is a people robbed and plundered;  
All of them are snared in [legal] holes, [by the sophistry of rebellious public “servant” lawyers]  
And they are hidden in prison houses;  
They are for prey, and no one delivers;  
For plunder, and no one says, “Restore!”  
Who among you will give ear to this?  
Who will listen and hear for the time to come?  
Who gave Jacob [Americans] for plunder, and Israel [America] to the robbers?  
**Was it not the LORD,**  
**He against whom we have sinned?**  
**For they would not walk in His ways,**  
**Nor were they obedient to His law,**  
Therefore He has poured on him the fury of His anger  
And the strength of battle;  
It has set him on fire all around,  
Yet he did not know;  
And it burned him,  
Yet he did not take it to heart.  
[Isaiah 42:22-25, Bible, NKJV]*

Your government is a PREDATOR, not a PROTECTOR. Wake up people! If you want to know what your public servants are doing to systematically disobey and destroy the main purpose of the Constitution and destroy your rights in the process, read the following expose:

Government Conspiracy to Destroy the Separation of Powers, Form #05.023

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

3. The PROPAGANDA you read on the IRS website that contradicts the content of this section honestly (for ONCE!) identifies itself as the equivalent of BUTT WIPE that isn’t worth the paper it is printed on and which you can’t and shouldn’t believe. This BUTT WIPE, incidentally, includes ALL the IRS Publications and 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)]*

4. If you want to know what constitutes a “reasonable source of belief” about federal jurisdiction in the context of taxation, please see the following. Note that it concludes that you CAN’T trust anything a tax professional or government employee or even court below the Supreme Court says on the subject of taxes, and this conclusion is based on the findings of the courts themselves!

Reasonable Belief About Income Tax Liability, Form #05.007

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

## 6.9 How States of the Union are illegally treated as statutory “States” under federal law

By default, states of the Union mentioned in the Constitution:

1. Are sovereign and legislatively foreign in respect to federal legislative jurisdiction.
2. Are not subject to federal civil or criminal law.
3. Function in nearly every particular as independent nations under the law of nations.

The above facts are covered further in the next section. Like any other legal entity or “person”, however, a state of the Union can make themselves subject to private foreign law by exercising their right to contract with an otherwise foreign entity. This process of contracting operates under equity and in that capacity, the state behaves as the equivalent of a private person contracting with other private persons:

When a State engages in ordinary commercial ventures, it acts like a private person, outside the area of its "core" responsibilities, and in a way unlikely to prove essential to the fulfillment of a basic governmental obligation. A Congress that decides to regulate those state commercial activities rather than to exempt the State likely believes that an exemption, by treating the State differently from identically situated private persons, would threaten the objectives of a federal regulatory program aimed primarily at private conduct. Compare, e.g., 12 U.S.C. §1841(b) (1994 ed., Supp. III) (exempting state companies from regulations covering federal bank holding companies); 15 U.S.C. §77c(a)(2) (exempting state-issued securities from federal securities laws); and 29 U.S.C. §652(5) (exempting States from the definition of “employer[s]” subject to federal occupational safety and health laws), with 11 U.S.C. §106(a) (subjecting States to federal bankruptcy court judgments); 15 U.S.C. §1122(a) (subjecting States to suit for violation of Lanham Act); 17 U.S.C. §511(a) (subjecting States to suit for copyright infringement); 35 U.S.C. §271(h) (subjecting States to suit for patent infringement). And a Congress that includes the State not only within its substantive regulatory rules but also (expressly) within a related system of private remedies likely believes that a remedial exemption would similarly threaten that program. See *Florida Prepaid Postsecondary Ed. Expense Bd. v. College Savings Bank*, ante, at \_\_\_\_ (Stevens, J., dissenting). It thereby avoids an enforcement gap which, when allied with the pressures of a competitive marketplace, could place the State’s regulated private competitors at a significant disadvantage.

These considerations make Congress’ need to possess the power to condition entry into the market upon a waiver of sovereign immunity (as “necessary and proper” to the exercise of its commerce power) unusually strong, for to deny Congress that power would deny Congress the power effectively to regulate private conduct. Cf. *California v. Taylor*, 353 U.S. 553, 566 (1957). At the same time they make a State’s need to exercise sovereign immunity unusually weak, for the State is unlikely to have to supply what private firms already supply, nor may it fairly demand special treatment, even to protect the public purse, when it does so. Neither can one easily imagine what the Constitution’s founders would have thought about the assertion of sovereign immunity in this special context. These considerations, differing in kind or degree from those that would support a general congressional “abrogation” power, indicate that Parden’s holding is sound, irrespective of this Court’s decisions in *Seminole Tribe of Fla. v. Florida*, 517 U.S. 44 (1996), and *Alden v. Maine*, ante, p. \_\_\_\_ [*College Savings Bank v. Florida Prepaid Postsecondary Education Expense*, 527 U.S. 666 (1999)]

Notice the above statement:

These considerations make Congress’ need to possess the power to condition entry into the market upon a waiver of sovereign immunity (as “necessary and proper” to the exercise of its commerce power) unusually strong, for to deny Congress that power would deny Congress the power effectively to regulate private conduct. Cf. *California v. Taylor*, 353 U.S. 553, 566 (1957).

The U.S. Congress has the right to regulate foreign or interstate commerce, regardless of whether it is a constitutional state engaging in the commerce or simply a private human being or business. Therefore, only after a sovereignty such as a Constitutional state government contracts as the equivalent of a private party in commerce can it become a “person” under the contract or franchise that it consented to. That waiver of sovereignty and sovereign immunity is mandated by the Foreign Sovereign Immunities Act, which says in pertinent part:

TITLE 28 > PART IV > CHAPTER 97 > § 1605  
§1605. General exceptions to the jurisdictional immunity of a foreign state

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

That process of consent can only be in relation to a private party because a state cannot lawfully do any of the following without violating the Separation of Powers Doctrine, U.S. Supreme Court:

1. Agree to be treated as a federal territory or statutory “State”.
2. Contract away its sovereignty to the national government.

No doubt, a state of the Union may procure a formerly private business or create a business of its own that engages in interstate commerce and thereby become subject to federal regulation, but they can do so only indirectly as the equivalent of a private party on the same footing as every other private party engaging in regulated activity. And in that capacity, they are a private person and not a statutory “State” under federal law.

Ordinarily, when the federal government is legislating for constitutional states, it uses the phrase “several States” just as it is used in the Constitution itself. Here are some examples:

*United States Constitution*  
*Article IV, Section 2*

*The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in **the several States.***

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[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.*

On the other hand, when the U.S. Congress wants to legislate for federal territories and possessions, it uses the term “the States” rather than “the **SEVERAL** States”:

[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.*

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*20 C.F.R. §422.404.2*  
*Social Security*

*(6) **United States**, when used in a geographical sense, includes, unless otherwise indicated:*

- (i) **The States**,*
- (ii) The Territories of Alaska and Hawaii prior to January 3, 1959, and August 21, 1959, respectively, when they acquired statehood,*
- (iii) The District of Columbia,*

(iv) *The Virgin Islands*,  
(v) *The Commonwealth of Puerto Rico effective January 1, 1951*, (vi) *Guam and American Samoa, effective September 13, 1960, generally, and for purposes of sections 210(a) and 211 of the Act, effective after 1960 with respect to service performed after 1960, and effective for taxable years beginning after 1960 with respect to crediting net earnings from self-employment and self-employment income, and*  
(vii) *The Commonwealth of the Northern Mariana Islands effective January 1, 1987.*

We allege that a violation of due process of law, a violation of the separation of powers, and treason on the part of the judge has occurred when any Court:

1. Includes constitutional states of the Union operating in the PUBLIC capacity as GOVERNMENTS within the statutory definition of:
  - 1.1. “State” within any act of Congress.
  - 1.2. “the States” within any act of Congress. See 4 U.S.C. §110(d).
2. Treats a constitutional State as a statutory “State” under federal law under the auspices of the Foreign Sovereign Immunities Act as indicated above. Instead, they must be treated as a private “person” and NOT a statutory “State”, which is the equivalent of a federal territory.
3. Imputes a different meaning or class of things to the plural “States” or “the States” than it does to the definition of the singular version of “State”. For instance, 26 U.S.C. §7701(a)(10) defines “State” as the District of Columbia and does not define the plural but includes the plural within the definition of “United States” in 26 U.S.C. §7701(a)(9). It is a rule of statutory construction that the plural cannot have a different meaning than the singular:

[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.

What judges seem to like to do to unconstitutionally expand their jurisdiction is to use the word “includes” as a means to add anything they want to the definition of a term, but this clearly violates the rules of statutory construction, due process of law, and the Separation of Powers Doctrine, U.S. Supreme Court:

*“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*

1 the Attorney General's restriction -- "the child up to the head." Its words, "substantial portion," indicate the  
2 contrary."  
3 [*Stenberg v. Carhart*, 530 U.S. 914 (2000)]

4 Any judge who violates these rules and tries to include a constitutional state into a statutory State under federal law ought  
5 to be called on it, because he/she is clearly doing the following:

- 6 1. Exceeding his/her delegated authority.
- 7 2. Legislating from the bench by adding to the definition of words. This violates the separation of powers between the  
8 Judicial Branch and the Legislative Branch.
- 9 3. Violating the separation of powers between the states and the federal government. See:

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

- 10 4. Engaging in a conspiracy to destroy your Constitutional rights. The MAIN purpose of the separation of powers is to  
11 protect your constitutional rights. Disregarding it is a violation of rights.

12 "We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S.  
13 Const., Art. I, § 8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal  
14 government are few and defined. Those which are to remain in the State governments are numerous and  
15 indefinite." *The Federalist* No. 45, pp. 292-293 (C. Rossiter ed. 1961). **This constitutionally**  
16 **mandated division of authority "was adopted by the Framers**  
17 **to ensure protection of our fundamental liberties."** *Gregory v. Ashcroft*,  
18 **501 U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of**  
19 **the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in**  
20 **any one branch, a healthy balance of power between the States and the Federal Government will reduce the**  
21 **risk of tyranny and abuse from either front."** *Ibid.* "  
22 [*U.S. v. Lopez*, 514 U.S. 549 (1995)]

- 23 5. Violating due process of law by making false presumptions and depriving other litigants of the EQUAL right to  
24 presume what IS NOT included in the definition.

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

25 We end this section with a comparison between STATUTORY states under federal law and CONSTITUTIONAL states  
26 under the United States Constitution. They are NOT the same and no federal or state judge can lawfully make them the  
27 same without committing a crime!  
28



**Table 8: Comparison of Republic State v. Corporate State**

#	Attribute	<i>CONSTITUTIONAL Republic State</i>	<i>STATUTORY Corporate State</i>
1	<i>Name</i>	"Republic of _____"	"State of _____"
2	<i>Name of this entity in federal law</i>	Called a "state" or "foreign state"	Called a "State" as defined in <a href="#">4 U.S.C. §110(d)</a>
3	<i>Protected by the Bill of Rights, which is the first ten amendments to the United States Constitution?</i>	Yes	No (No rights. Only statutory "privileges")
4	<i>Form of government</i>	Constitutional Republic	Legislative totalitarian socialist democracy
5	<i>A corporation?</i>	Yes	Yes
6	<i>A federal corporation?</i>	No	Yes
7	<i>Exclusive jurisdiction over its own lands?</i>	Yes	No. Shared with federal government pursuant to Buck Act, Assimilated Crimes Act, and ACTA Agreement.
8	<i>"Possession" of the United States?</i>	No (sovereign and "foreign" with respect to national government)	Yes
9	<i>Subject to exclusive federal jurisdiction?</i>	No	Yes
10	<i>Subject to federal income tax?</i>	No	Yes
11	<i>Subject to state income tax?</i>	No	Yes
12	<i>Subject to state sales tax?</i>	No	Yes
13	<i>Subject to national military draft? (See SEDM Form #05.030 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>)</i>	No	Yes
14	<i>Citizenship of those domiciled therein</i>	1. Constitutional but not statutory citizen. 2. "national" or "state national" pursuant to <a href="#">8 U.S.C. §§1101(a)(21)</a> . Not a statutory "U.S. citizen" pursuant to 8 U.S.C. §1401.	Statutory "U.S. citizen" pursuant to <a href="#">8 U.S.C. §1401</a>
15	<i>Licenses such as marriage license, driver's license, business license required in this jurisdiction?</i>	No	Yes
16	<i>Voters called</i>	"Electors"	"Registered voters"
17	<i>How you declare your domicile in this jurisdiction</i>	1. Describing yourself as a "state national" but not a statutory "U.S. citizen" on all government forms. 2. Registering as an "elector" rather than a voter. 3. Terminating participation in all federal benefit programs.	1. Describing yourself as a statutory "U.S. citizen" on any state or federal form. 2. Applying for a federal benefit. 3. Applying for and receiving any kind of state license.

**6.10 You can't earn "income" or "reportable income" WITHOUT being engaged in a public office in the U.S. government**

Before IRS can do an assessment, they must have an information return documenting the receipt of "income". Information returns include IRS Forms W-2, 1042-S, 1098, 1099, etc. 26 U.S.C. §6041(a) affirms that the ONLY way these information returns can lawfully be filed is if the payment they document occurred in connection with a statutory "trade or business" as defined in 26 U.S.C. §7701(a)(26).

[TITLE 26 > Subtitle F > CHAPTER 61 > Subchapter A > PART III > Subpart B > § 6041](#)  
[§ 6041. Information at source](#)

(a) Payments of \$600 or more

**All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042 (a)(1), 6044 (a)(1), 6047 (e), 6049 (a), or 6050N (a) applies, and other than payments with respect to which a statement is required under the authority of section 6042 (a)(2), 6044 (a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.**

A statutory “trade or business” is then defined as follows:

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

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

(26) Trade or business

*“The term ‘trade or business’ includes the performance of the functions of a public office.”*

Nowhere in the entire [I.R.C.](#) or any [IRS publication](#) is the above definition of “trade or business” expanded to include any activity *other* than a “public office”, and therefore it is all-inclusive and limited to “public offices”. This is also confirmed by the rules of statutory construction, which say on this subject:

*“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 \(2000\)\]](#)

If you would like to learn more about what a “trade or business” and a “public office” is, see the following, because that subject is beyond the scope of this pamphlet:

[The “Trade or Business” Scam, Form #05.001](#)  
<http://sedm.org/Forms/FormIndex.htm>

The vast majority of Americans are not lawfully engaged in a “public office”. Hence, most information returns are FALSE and FRAUDULENT. It is only earnings in connection with the “trade or business”/public office franchise that may lawfully be taxed under Internal Revenue Code Subtitle A. Some in government like to argue against this claim by quoting 26 U.S.C. §871(a), which allegedly taxes earnings NOT connected with the “trade or business” franchise. HOWEVER, even earnings mentioned in this section are associated indirectly with a “trade or business” at 26 U.S.C. §864(c)(3):

(c) Effectively connected income, etc.

(3) Other income from sources within United States

All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.

Hence, even so-called earnings that are NOT directly connected with the “trade or business” franchise in 26 U.S.C. §871(a) are in fact DEEMED to be connected to said franchise. This is why we say that essentially, the entire Internal Revenue Code, Subtitles A and C is really just an excise or franchise tax upon public offices within the government. It is what we call a “public officer kickback program”. Those who are required to participate are specifically identified in 5 U.S.C. §2105(a) as “officers AND individuals”, meaning that the only way you can BECOME a statutory “individual” is to serve in a public office within the federal government. Otherwise, the U.S. Supreme Court has repeatedly held that the ability to regulate PRIVATE conduct is repugnant to the Constitution.

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

Those who therefore argue against the conclusion that public offices within the government are the only ones who can earn “reportable” and therefore “taxable” income have the burden of explaining how:

1. The IRS can FIND OUT about PRIVATE earnings NOT connected to the “trade or business”/public office franchise, since they are NOT reported.
2. IRS can lawfully tax PRIVATE PROPERTY without in effect executing eminent domain without compensation against PRIVATE property in violation of the Fifth Amendment. The only party who can lawfully convert PRIVATE property to PUBLIC property is the original owner, and it must be DONATED to public use before the public can REGULATE or TAX said use. Taxation, after all, is the process of converting PRIVATE property to PUBLIC property.

## 6.11 Meaning of “United States” within IRS Publications: The GOVERNMENT and not a geographical place

Even within federal territories and possessions such as Puerto Rico and American Samoa, IRS Publication 519 describes the following requirements:

*“Bona Fide Residents of American Samoa or Puerto Rico*

*If you are a nonresident alien who is a bona fide resident of American Samoa or Puerto Rico for the entire tax year, you generally are taxed the same as resident aliens. You should file Form 1040 and report all income from sources both in and outside the United States. However, you can exclude the income discussed in the following paragraphs.*

*For tax purposes other than reporting income, however, you will be treated as a nonresident alien.*

*[. . .]*

*Residents of Puerto Rico.*

*If you are a bona fide resident of Puerto Rico for the entire tax year, you can exclude from gross income all income from sources in Puerto Rico (other than amounts for service performed as an employee of the United States or any of its agencies).*

*[. . .]*

Residents of American Samoa.

**If you are a bona fide resident of American Samoa for the entire year, you can exclude from gross income all income from sources in American Samoa (other than amounts for services performed as an employee of the U.S. government or any of its agencies)."**  
[IRS Publication 519, U.S. Tax Guide for Aliens (2009), pp. 33-34]

Based on the above, the following conclusions are inevitable and are the ONLY thing that is entirely consistent with the I.R.C., all the court cases we have read, and the I.R.S. publications in their entirety:

1. Those domiciled in Puerto Rico and American Samoa are "resident aliens" under 26 U.S.C. §7701(b)(1)(A).
2. Puerto Rico and American Samoa do not count as "sources within the United States" per 26 U.S.C. §861 except in the case of:

**". . . amounts for service performed as an employee of the United States or any of its agencies"**

3. Alien individuals domiciled in Puerto Rico and American Samoa are treated as:
  - 3.1. Resident aliens under 26 U.S.C. §7701(b)(1)(A) for the purpose of reporting ONLY
  - 3.2. Nonresident aliens under 26 U.S.C. §7701(b)(1)(B) for the purposes of tax returns.These territories are therefore NOT within the statutory "United States".
4. Because taxation of human beings is limited to services performed as a statutory "employee" of the United States per 5 U.S.C. §2105(a) and 26 U.S.C. §3401(c) or federal corporations and EXCLUDES private earnings, then "sources within the United States" as identified in 26 U.S.C. §861 REALLY can only mean THE GOVERNMENT and not any geographic place. This is also consistent with 26 U.S.C. §864(c)(3):

[TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864](#)  
[§864. Definitions and special rules](#)

(c) Effectively connected income, etc.

(3) Other income from sources within United States

*All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) **shall be treated as effectively connected with the conduct of a trade or business within the United States.***

The ONLY place where ALL earnings are connected with a public office and a statutory "trade or business" is the United States Government in the District of Columbia, and more particularly, among statutory "employees", all of whom are identified in 5 U.S.C. §2105(a) as public officers by being called an "officer and individual":

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

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

5. "United States" is used in TWO senses within the I.R.C.: (1) The GEOGRAPHIC SENSE and (2) The GOVERNMENT SENSE.
  - 5.1. Not all senses of the term "United States" are defined in Title 26, but rather only one of the TWO senses, which is the GEOGRAPHIC SENSE. The definitions at 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) are, in fact, a red herring and define only ONE of the two contexts.

[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.

5.2. If they identified exactly which of these two senses was intended for every use, their FRAUD would have to end immediately. So they keep it quiet, leave undue discretion to judges to decide because of incomplete and vague definitions, and abuse presumption and propaganda to expand their jurisdiction unlawfully.

5.3. The term "United States" as used within the phrase "sources within the United States" in 26 U.S.C. §861 is NOT used in a GEOGRAPHIC SENSE found in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d), but rather in the "GOVERNMENT" sense ONLY. Why? Because only earnings of government statutory "employees" or instrumentalities acting as public officers are counted as taxable "gross income".

6. The term "the States" as used in 26 U.S.C. §7701(a)(9) really can only mean federal corporations that are part of the U.S. government and not constitutional states of the Union. This is confirmed by the following:

6.1. A holding of the U.S. Supreme Court, which confirms that "income" within the meaning of the revenue laws means corporate profit:

*"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) ]

6.2. The fact that Congress is forbidden by the U.S. Constitution from creating a state within a state or from enacting civil legislation enforceable within the borders of a Constitutional but not statutory state per Article 4, Section 3, Clause 1, or from treating states of the Union as either federal territories or statutory "States" within the meaning of the I.R.C.

*United States Constitution  
Article 4: States Relations  
Section 3.*

*New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.*

6.3. A holding of the U.S. Supreme Court, which confirms that federal territories and therefore statutory "States" are all corporate franchises. Notice also that they define an "individual" as a "corporation sole", thus implying that the "individual" within the I.R.C. is in fact a corporation sole.

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

7. The statutory "citizen" or "resident" or "U.S. person" all are synonymous with the GOVERNMENT CORPORATION and NOT a human being. That corporation described in 28 U.S.C. §3002(15)(A) itself is a statutory but not constitutional "U.S. citizen", "U.S. resident", and "U.S. person".

*"A corporation is a citizen, [resident](#), or inhabitant of the state or country by or under the laws of which it was created, and of that state or country only."*



8. The term “United States” as defined in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d) must by implication be limited to ONLY those DOMICILED in the District of Columbia, WHEREVER physically situated. A person who is a “bona fide resident” of Puerto Rico or American Samoa, for instance, could not ALSO be a resident anywhere else because you can only have a DOMICILE in ONE PLACE at a time. Hence, they would not be domiciled within the statutory “United States”.
9. The only real “taxpayer” is a public office in the U.S. government and not state government. It is THIS statutory “taxpayer” who is the REAL “person” and “individual” mentioned in the I.R.C. at 26 U.S.C. §6671(b) and 26 U.S.C. §7343 and NOT the public officer filling the office. The public officer is a “partner” with the public office and he/she/it represents this public office and “taxpayer” as a “transferee” when information returns are filed against the office or against the name of the officer. See 26 U.S.C. §§6901 and 6903.
10. Even in the case of “nonresident aliens” as described in 26 U.S.C. §7701(b)(1)(B), a domicile on federal territory is still involved in the case of the statutory “taxpayer”. Why? Because:
  - 10.1. The statutory “person” and “individual” being taxed is NOT the nonresident entity or human being, but the PUBLIC OFFICE filled by the entity through the “trade or business” franchise contract.<sup>35</sup> The PUBLIC OFFICE is domiciled on federal territory but the PUBLIC OFFICER is NOT.
  - 10.2. The PUBLIC OFFICER is surety for the PUBLIC OFFICE through the “trade or business” franchise contract. Hence, the tax is an indirect excise tax as repeatedly held by the U.S. Supreme Court.<sup>36</sup> 26 U.S.C. §6671(b) and 26 U.S.C. §7343 both confirm that the legal definition of “person” for the purpose of the I.R.C. is an “officer or employee of a corporation or partnership” who has a FIDUCIARY DUTY to the public and therefore is a public officer. The “partnership” they are referring to is the franchise partnership between the OFFICE and the OFFICER. The only way that fiduciary duty could be created is through a franchise contract or quasi-contract because it is otherwise illegal to punish someone for NOT doing something. This would be forbidden by the Thirteenth Amendment as “involuntary servitude”.
11. Consent of the human being is required to turn that PRIVATE human being into a public officer and it is a crime in violation of 18 U.S.C. §912 to unilaterally elect yourself into public office by either signing a tax form or using a Taxpayer Identification Number when NOT actually occupying said public office created under the authority of Title 5 and not Title 26 of the U.S. Code.
12. The reader should also note that it is “nonresident alien INDIVIDUALS” made liable for tax returns in 26 C.F.R. §1.6012-1(b), and NOT “non-resident non-persons”. Hence:
  - 12.1. “non-resident non-persons” who are NOT statutory “Individuals” or “persons” are not engaged in the “trade or business” franchise.
  - 12.2. “nonresident alien INDIVIDUALS” as described in 26 C.F.R. §1.6012-1(b) ARE public officers.
13. The word “INTERNAL” within the phrase “INTERNAL Revenue Service” means INTERNAL to the U.S. government corporation, and not INTERNAL to the geographical or statutory “United States”.
14. The I.R.C. Subtitles A through C behaves as a public officer kickback program disguised to “look” like a legitimate income tax. The feds have never been able to regulate or tax private conduct and only have the authority to impose duties upon their own statutory “employees” without just compensation. Hence, through “words of art”, presumption, and IRS propaganda<sup>37</sup> they had to deceive the average American into filling out paperwork that makes him/her/it “look” like the only thing they have jurisdiction over, which is their own public officers and franchises. It’s ALL FRAUD.

Consistent with the above, the following regulation betrays the above CONSTRUCTIVE FRAUD. Notice that what makes an entity “resident” is whether they are engaged in a public office and therefore a statutory “trade or business” under 26 U.S.C. §7701(a)(26), and that residency has ABSOLUTELY NOTHING TO DO WITH THE NATIONALITY OR CITIZENSHIP OR EVEN THE DOMICILE of the entity:

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

<sup>35</sup> See: *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>

<sup>36</sup> See *Flint vs. Stone Tracy Co.*, 220 U.S. 107 (1911), *Brushaber v. Union Pacific R. Co.*, 240 U.S. 1 (1916), *Spreckels Sugar Refining Co. v. McClain*, 192 U.S. 397, 24 S.Ct. 376; *Stratton’s Independence v. Howbert*, 231 U.S. 399, 34 S.Ct. 136; *Doyle v. Mitchell Brothers Co.*, 247 U.S. 179, 183, 38 S.Ct. 467; *Stanton v. Baltic Mining Co.*, 240 U.S. 103, 114, 36 S.Ct. 278.

<sup>37</sup> See: Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8, which says you CANNOT trust or rely upon ANY IRS publication.

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.  
[Amended by T.D. 8813, Federal Register: February 2, 1999 (Volume 64, Number 21), Page 4967-4975]  
[SOURCE: <http://fanguardian.org/TaxFreedom/CitesByTopic/Resident-26cfr301.7701-5.pdf>]

Consistent with the content of this section, IRS Form 1040NR describes those from American Samoa and Swains Island as “U.S. nationals” and nonresident aliens. The IRS 1040NR Form, block 1 filing status lists the following:

☐ Single resident of Canada or Mexico, or a single U.S. national

Then, in the IRS Form 1040NR Instruction Book for 2009 on p. 8, it says the following:

*“U.S. national. A U.S. national is an individual who, although not a U.S. citizen, owes his or her allegiance to the United States. U.S. nationals include American Samoans and Northern Mariana Islanders who chose to become U.S. nationals instead of U.S. citizens.”*  
[IRS Form 1040NR Instruction Booklet (2009), p. 8]

We prove throughout this document that people born within and domiciled within constitutional states of the Union are all of the following, and therefore have the status roughly equivalent to that above and are statutory “non-resident non-persons”:

1. “nationals” per 8 U.S.C. §1101(a)(21).
2. NOT any of the following:
  - 2.1. STATUTORY “U.S. nationals” or “nationals but not citizens of the United States at birth” per 8 U.S.C. §1408 or 8 U.S.C. §1452.
  - 2.2. “a person who, though not a citizen of the United States, owes permanent allegiance to the United States.” per 8 U.S.C. §1101(a)(22)(B). By “person”, they can only mean a CIVIL STATUTORY “person”. Note that his status is equivalent to a “non-citizen national of the “United States” found in 8 U.S.C. §1408 or 8 U.S.C. §1452.

By deduction, since IRS describes those “taxpayers” domiciled in federal territories and possessions such as Puerto Rico and American Samoa as statutory “aliens” per the Internal Revenue Code, then “taxpayers” domiciled in states of the Union must have at least the same standing, which means they are statutory “aliens” or “nonresident aliens” for the purposes of filing income tax returns. They don’t become “individuals” or the “nonresident alien individual” mentioned in 26 C.F.R. §1.6012-1(b) who has a liability to file a tax return unless and until they are lawfully engaged in an elected or appointed public office in the U.S. government. This is consistent with 26 C.F.R. §301.6109-1, which says that Taxpayer Identification Numbers are ONLY MANDATORY in the case of those engaged in a statutory “trade or business”, which is defined as “the functions of a public office” in 26 U.S.C. §7701(a)(26).

**NOTE:** By saying the above, we are NOT implying ANY of the following:

1. That the jurisdiction of the Internal Revenue Code is limited ONLY to the District of Columbia. Like all income taxes, it attaches to DOMICILE, and you can have a domicile or residence in the District of Columbia WITHOUT a physical presence there. Domicile is not where you ARE, but where you have been in the past AND CONSENT to be civilly protected.

*"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)]

2. That the U.S. government is without authority to tax its own public offices. By "public office", we mean "trade or business", which is defined in 26 U.S.C. §7701(a)(26) as "the functions of a public office". Instead, they can tax them ANYWHERE they are EXPRESSLY AUTHORIZED by law as required by 4 U.S.C. §72, which at this time is limited EXCLUSIVELY to the District of Columbia and the Virgin Islands. Anyone who asserts authority to tax outside the District of Columbia has the burden of PROVING with evidence that the public office subject to tax was expressly authorized to be executed in the specific place it is sought to be taxed.

TITLE 4 > CHAPTER 3 > § 72  
Sec. 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*

Consistent with the preceding discussion in this section, the U.S. Supreme Court affirmed that Puerto Rico is NOT within the "United States" for the purposes of the Constitution. Hence, it is a CONSTITUTIONAL "non-resident" in relation to the states of the Union and also is treated as "foreign" in relation to Internal Revenue Code, Subtitles A and C:

*"We are therefore of opinion that the island of Porto Rico is a territory appurtenant and belonging to the United States, but not a part of the United States\*\*\*] within the revenue clauses of the Constitution;"*  
[Downes v. Bidwell, 182 U.S. 244 (1901)]

For further details on the subject of this section, see:

An Investigation Into the Meaning of the Term "United States", Alan Freeman

HTML: <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm>

PDF: <http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.pdf>

## **7 Definition of "employee" within the U.S. Code and Implementing Regulations**

The term "employee" is defined as follows within the I.R.C. and the underlying Treasury Regulations which implement it:

26 U.S.C. Sec. 3401(c) Employee

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

26 C.F.R. §31.3401(c)-1 Employee:

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

**Employee:** “The term employee **specifically includes** officers and employees **whether elected or appointed, of the United States, a state, territory, or political subdivision thereof or the District of Columbia or any agency or instrumentality of any one or more of the foregoing.**”

All of the above definitions have one thing in common: They all describe an elected or appointed officer of the United States government and do not explicitly include anyone other than these groups. We could find no definition of “employee” that does not include an elected or appointed officer of the United States who took a constitutional oath. When public servants are confronted with the above definitions, the only defense we have seen coming from anyone in government is to point to the use of the word “includes” appearing in the above definitions, and then to point to the definition of includes in [26 U.S.C. §7701\(c\)](#) and say that the above definitions “assume” or “presume” the addition of the common definition of the word. This is clearly a violation of due process of law. This pitiful rationalization in defense of what amounts to illegal and unconstitutional organized extortion and theft is also exhaustively and authoritatively rebutted in the free pamphlet available below:

[Legal Deception, Propaganda, and Fraud](#), Form #05.014  
<http://sedm.org/Forms/FormIndex.htm>

The term “employee” is also defined in Title 5 of the U.S. Code as follows. Note that all the parties described are “officers”, meaning “public officers”, of the government and not what most people would consider an “employee” in an ordinary or common law sense:

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

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

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

(A) the President;

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

(C) a member of a uniformed service;

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

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

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

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

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

Notice the underlined and highlighted portion above, which implies that you cannot be an “employee” without ALSO being an “individual”. This is consistent with what the U.S. Supreme Court held on this very subject:

“All the powers of the government [[including nearly all of its civil enforcement powers](#) against the public] must be carried into operation **by individual agency, either through the medium of public officers, or contracts made with [private] individuals.**”

[*Osborn v. Bank of U.S.*, [22 U.S. 738](#) (1824)]

We add to the above that your right to contract is the origin of all the powers of the government because you cannot become a “public officer” without contracting with the government. Your consent or agreement to occupy a public office, in fact, is the action which creates the “individual” who is the subject of all federal legislation and also the “taxpayer” who is the main subject of the Internal Revenue Code.

The “individual” described in 5 U.S.C. §2105 earlier and by the U.S. Supreme Court above is the office or “public office”, and not the human being who fills it. That “individual” is the following:

1. The same “individual” defined in 5 U.S.C. §552a(a)(2) (the Privacy Act) as a statutory “U.S. citizen” or a statutory “resident” (alien) with a domicile on federal territory that is no part of a state of the Union.

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552a](#)  
[§ 552a. Records maintained on individuals](#)

(a) Definitions.— For purposes of this section—

(2) the term “individual” means a citizen of the United States or an alien lawfully admitted for permanent residence;

2. The same individual described in block 3 of the IRS Form W-8BEN. See:

About IRS Form W-8BEN, Form #04.202  
<http://sedm.org/Forms/FormIndex.htm>

3. The same “individual” mentioned in the title of IRS Form 1040 at the top: “U.S. **Individual** Income Tax Return”.
4. The same “individual” defined in 26 C.F.R. §1.1441-1(c)(3) and mentioned in 26 U.S.C. §7701(c) within the definition of “person”.
5. The same “individual” that appears at the end of the phrase “nonresident alien individual” appearing in 26 C.F.R. §1.6012-1(b), in which “nonresident alien individuals” but not “nonresident aliens” who are NOT “individuals”, are made liable to file a return. Therefore, a “nonresident alien individual” can only be a “resident alien” who made an election pursuant to 26 U.S.C. §6013(g) and (h) to be treated as a “resident alien” because they are married to a statutory “U.S. citizen”. Such an election is FORBIDDEN in the case of a person domiciled in a state of the Union who is a national but not an alien because you cannot be a statutory “U.S. citizen” and a “resident” (alien) at the same time.
6. The “person” defined in 26 U.S.C. §6671(b) and 26 U.S.C. §7343, both of whom are public officers within the government and are the only proper subjects for IRS penalties and criminal enforcement.

When you sign an IRS Form W-4, 26 C.F.R. §31.3401(a)-3(a) and 26 C.F.R. §31.3402(p)-1 both indicate that you are signing a contract agreeing to the following:

1. To treat all your earnings as “wages” as legally defined but not commonly understood.

[26 C.F.R. §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general.

**Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term “wages” includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p). References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).**

(b) Remuneration for services.

(1) Except as provided in subparagraph (2) of this paragraph, **the amounts referred to in paragraph (a) of this section include any remuneration for services performed by an employee for an employer which, without regard to this section, does not constitute wages under section 3401(a).** For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by section 3401(a) (2) and (3), respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under section 3402(p). See §§31.3401(c)-1 and 31.3401(d)-1 for the definitions of “employee” and “employer”.

2. To treat your earnings as “gross income” that must be included on a tax return.

Title 26: Internal Revenue

[PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE](#)  
[Subpart E—Collection of Income Tax at Source](#)  
[§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 §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. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.



3. To be a “resident alien” with a domicile on federal territory. 26 C.F.R. §1.1-1(a)(2)(ii) and 26 C.F.R. §1.1441-1(c)(3) both indicate that all “taxpayers” are “resident aliens” with a domicile on federal territory.
4. To donate your formerly private earnings to a public use”, a “public purpose”, and a “public office” in order to procure the benefits of the office, such as tax deductions (e.g. “trade or business deductions”) found in 26 U.S.C. §162, earned income credits found in 26 U.S.C. §32, and a graduated (reduced) rate of tax found in 26 U.S.C. §1.

*“Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. **That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit; 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)]

In addition, the IRS would have you believe the following FALSE presumptions about the effect of signing IRS Form W-4:

1. You agreed to represent a “public office” within the U.S. government and accept all the obligations of the office. After all, signing form W-4 gives the “employer” permission to file W-2 information returns against you, which 26 U.S.C. §6041(a) says can only be filed for persons lawfully engaged in a “trade or business”, which 26 U.S.C. §7701(a)(26) defines as a “public office”.
2. You became the “employee” of the federal and not state government as indicated above, even if you were not previously a federal “employee” as legally defined.
3. You became an “individual” who is described above within federal law.

The above FALSE presumptions of the IRS are unlawful because:

1. No tax form authorizes or can authorize the CREATION of any new public offices in the U.S. government. The I.R.C. can only authorize the taxation of EXISTING public offices. It is absolutely ludicrous to conclude that anyone can lawfully use a tax form as a federal election form to “elect” themselves into public office. This would be a crime in violation of 18 U.S.C. §912.
2. IRS Form W-4 cannot lawfully be used as a method of hiring new federal “employees”. The standard hiring process has to be followed universally for all federal “employees”.
3. You can’t become a “resident” of a place that you never physically resided at. That place is the statutory “United States\*” (federal zone), which is defined as in 26 U.S.C. §7701(a)(9) and (a)(10) and 4 U.S.C. §110(d). If you don’t physically live there at the time, you can’t contract to become a “resident” if you aren’t physically there or haven’t ever been physically there. Therefore, it is fraudulent to call yourself an “individual”. The only way you can become an “individual” is to physically reside there at one point and select a domicile in that place.
4. 4 U.S.C. §72 says that all public offices MUST be exercised ONLY in the District of Columbia and not elsewhere. There is no provision within the I.R.C. that authorizes or can authorize any public office to be exercised within the exclusive or general jurisdiction of any state of the Union. If you are not performing your duties as a federal “public officer” and federal W-4 contractor while within the District of Columbia, then you are serving unlawfully:

*“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 [e.g. license or permit] 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) ]

## 8 **The Buck Act, 4 U.S.C. §111: State taxation ONLY over federal “officers and employees”**

The Buck Act of 1940, which is the sole authority for state income taxation in most states, authorizes state taxation ONLY over federal “officers and employees”. Here is the text of the statute:

[TITLE 4 > CHAPTER 4 > § 111](#)  
[§ 111. Same; taxation affecting Federal employees; income tax](#)

*(a) General Rule.— The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation.*

*(b) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Columbia River.— Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—*

*(1) which is owned by the United States;*

*(2) which is located on the Columbia River; and*

*(3) portions of which are within the States of Oregon and Washington,*

*shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.*

*(c) Treatment of Certain Federal Employees Employed at Federal Hydroelectric Facilities Located on the Missouri River.— Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—*

*(1) which is owned by the United States;*

*(2) which is located on the Missouri River; and*

*(3) portions of which are within the States of South Dakota and Nebraska,*

*shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.*

*[Emphasis added]*

Because state revenue agencies know this is shaky legal ground to proceed against a sovereign American in a state who is not in fact and indeed a federal “officer or employee”, then these same states go out of their way to make sure that they never mention in their collection notices that this is in fact their authority. Instead, they simply ask you for money and refuse to indicate on their collection notice:

1. The statute making you liable to pay the alleged “tax”.
2. The excise taxable activity you were involved in that made you liable. In most cases, this activity would be a “trade or business” which is statutorily defined as a “public office” in [26 U.S.C. §7701\(a\)\(26\)](#).
3. What evidence they have proving that you had excise taxable “income”, such as providing the original bogus W-2 or 1099 forms that created the prima facie “presumption” that you received “gross income” as a federal “employee”.
4. Refuse to help, explain, or respond to your questions, even though in most cases this is required by their own internal regulations. They do this so you have to essentially play a game of “chicken” and see who is bolder in standing up for their rights. Persons who have been dumbed down in the government/public schools are no match for this kind of tyranny, and will usually cave in and just pay the money, even though they aren’t legally required to. The public schools are there to “manufacture” good sheep, not people who can think independently for themselves and who don’t need or want government in their lives.

1 All of the above constitute a very deliberate “smoke screen” to cover up what the state attorneys general undoubtedly know  
2 is a monumental fraud upon the public. You can confirm the above conclusion yourself by examining our state response  
3 letter page and examining collection notices from most of the states in the Union to confirm the truth of what we say here:

4 <http://sedm.org/SampleLetters/States/StateRespltrIndex.htm>

5 To fully implement the above provision, the federal government has also passed a statute under Title 5 of the U.S. Code  
6 that authorizes “States” to enter into an agreement with the Secretary of the Treasury which authorizes them to implement  
7 tax withholding. You will note that the title of Title 5 of the U.S. Code is “TITLE 5-GOVERNMENT ORGANIZATION  
8 AND EMPLOYEES”, which means that this code section can only apply to federal “officers and employees”. Here is the  
9 text of this statute:

10 [TITLE 5](#) > [PART III](#) > [Subpart D](#) > [CHAPTER 55](#) > [SUBCHAPTER II](#) > § 5517  
11 [§ 5517. Withholding State income taxes](#)

12 (a) When a State statute—

13 (1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums  
14 from the pay of employees and making returns of the sums to the State, or by granting to employers generally  
15 the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums  
16 withheld; and

17 (2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are  
18 residents of the State;

19 the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with  
20 the State within 120 days of a request for agreement from the proper State official. The agreement shall provide  
21 that the head of each agency of the United States shall comply with the requirements of the State withholding  
22 statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal  
23 employment is within the State with which the agreement is made. In the case of pay for service as a member of  
24 the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with  
25 which the agreement is made” for “whose regular place of Federal employment is within the State with which  
26 the agreement is made”.

27 (b) This section does not give the consent of the United States to the application of a statute which imposes  
28 more burdensome requirements on the United States than on other employers, or which subjects the United  
29 States or its employees to a penalty or liability because of this section. An agency of the United States may not  
30 accept pay from a State for services performed in withholding State income taxes from the pay of the employees  
31 of the agency.

32 (c) For the purpose of this section, “State” means a State, territory, possession, or commonwealth of the United  
33 States.

34 (d) For the purpose of this section and sections [5516](#) and [5520](#), the terms “serve as a member of the armed  
35 forces” and “service as a member of the Armed Forces” include—

36 (1) participation in exercises or the performance of duty under section [502](#) of title [32](#), United States Code, by a  
37 member of the National Guard; and

38 (2) participation in scheduled drills or training periods, or service on active duty for training, under section  
39 [10147](#) of title [10](#), United States Code, by a member of the Ready Reserve.

40 The agreement they are referring to above is called an “ACTA” agreement, which stands for “Agreement on Coordination  
41 of Tax Administration”. This is an agreement between the governor and the attorney general of a “State” and the Secretary  
42 of the Treasury of the United States which authorizes the “State” to collect income taxes from federal “officers and  
43 employee”. The problem with the above statute is that it doesn’t apply within any place OTHER than “federal areas”  
44 within the exterior limits of a “State”, and that the “State” they are referring to is a Territory of the United States and NOT a  
45 state of the Union. This is confirmed by the definition of “State” in the context of the Buck Act:

46 [TITLE 4](#) > [CHAPTER 4](#) > § 110  
47 [§ 110. Same; definitions](#)

48 (d) The term “State” includes any Territory or possession of the United States

As a consequence, the Buck Act and all federal and “State” withholding of personal income taxes can ONLY apply to federal “officers and employees” and not generally to all private citizens or private employment. This is confirmed by the IRS’ Internal Revenue Manual (I.R.M.), which says on this subject the following:

[IRM 5.14.10.2 \(09-30-2004\)](#)  
*Payroll Deduction Agreements*

**2. Private employers, states, and political subdivisions are not required to enter into payroll deduction agreements.** Taxpayers should determine whether their employers will accept and process executed agreements before agreements are submitted for approval or finalized.

[\[http://www.irs.gov/irm/part5/ch14s10.html\]](http://www.irs.gov/irm/part5/ch14s10.html)

Because public “servants” in state revenue agencies and the IRS know that people won’t pay state income taxes if they know about the existence of ACTA agreements and the nature of the imputed “tax”, they try to cover up their fraud and perpetuate their devious defense of “plausible deniability” as follows:

1. Have copies of these agreements conveniently removed from their website.
2. Refuse repeated requests under the Freedom of Information Act (FOIA), [5 U.S.C. §552](#), for copies of these agreements, without explanation or response.
3. Refuse to mention that these agreements are their sole authority for instituting income tax collection on their collection notice. If you ask them about this in response to their collection notice, they usually ignore but don’t refute you because they don’t want to destroy the flow of effectively STOLEN money to their treasuries. It is money acquired through constructive fraud, omission, and gross malfeasance.

We also note that it is a violation of the Separation of Powers Doctrine for a state of the Union to behave as a federal “territory” in the context of all persons under its care who are not in fact and in deed resident or domiciled in federal areas within the exterior limits of the state. Please see the following for further details on this scam:

Separation of Powers Doctrine  
<http://famguardian.org/Subjects/LawAndGovt/Articles/SeparationOfPowersDoctrine.htm>

## **9 Enforcement/Distrain only authorized against federal instrumentalities**

The Internal Revenue Code, also called Title 26 of the United States Code, may be freely viewed online at:

<http://law.cornell.edu/uscode/text/26>

This section and the following subsections will concern itself with the enforcement provisions of the Internal Revenue Code and who the proper audiences are for these provisions. We will show that in ALL cases, the only proper audience is federal instrumentalities, employees, and officers, which is consistent with the theme throughout this document that the only proper subjects of Subtitle A of the I.R.C. are federal instrumentalities.

### **9.1 Levies may only be made against federal instrumentalities**

The easiest way to determine the proper audience for the I.R.C. is to look at the statutes authorizing “distrain”. Distrain is defined as the process of enforcing collection:

***distrain:*** Seizure; the act of distraining or making a distress. The inchoate right and interest which a landlord has in the property of a tenant located on the demised premises. Upon a tenant's default, a landlord may in some jurisdictions distrain upon the tenant's property, generally by changing the locks and giving notice, and the landlord will then have a lien upon the goods. The priority of the lien will depend on local law. See Distress.  
*[Black's Law Dictionary, Sixth Edition, p. 474]*

Below is the content of [26 U.S.C. §6331](#), which describes who levies may be instituted against:

*26 U.S.C., Subchapter D - Seizure of Property for Collection of Taxes*  
[Sec. 6331](#), Levy and distrain

(a) Authority of Secretary

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

So we can see that levy and distraint may only be instituted against federal “employees”, or what the Privacy Act, [5 U.S.C. §552a](#)(a)(13) calls “federal personnel”. This is not a mistake or oversight, but simply an admission within the law itself of the very limited nature of the revenue scheme documented in Subtitle A of the Internal Revenue Code.

**9.2 Penalties under the I.R.C. only apply to federal “employees” and “officers” of federal (not state) corporations<sup>38</sup>**

*“By the blessing of God, may our country become a vast and splendid monument, not of oppression and terror, but of wisdom, of peace, and of liberty upon which the world may gaze with admiration forever.”*  
[First Bunker Hill Oration, Daniel Webster. Inscribed on a bronze plaque on the quarterdeck of the USS Bunker Hill, CG-52]

The Congress and the 50 state governments are prohibited by the Constitution from imposing any kind of punishment or penalty against natural persons without a judicial proceeding. This includes financial penalties associated with ensuring compliance with the Internal Revenue Code. This requirement derives from the U.S. Constitution, which in [Article 1](#), Section 9, Clause 3 prevents Congress from passing any kind of Bill of Attainder law. Likewise, [Article 1](#), Section 10 applies the same requirement to the 50 Union states. Below is the Constitutional restriction:

[Article 1, Section 9, Clause 3](#): “No Bill of Attainder or ex post facto Law shall be passed.” (with respect to the U.S. Congress)

[Article 1, Section 10, Clause 1](#): “No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.”

Below is the definition of a Bill of Attainder for your reference:

**Bill of attainder:** Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. *United States v. Brown*, 381 U.S. 437, 448-49, 85 S.Ct. 1707, 1715, 14 L.Ed. 484, 492; *United States v. Lovett*, 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. An act is a “bill of attainder” when the punishment is death and a “bill of pains and penalties” when the punishment is less severe; both kinds of punishment fall within the scope of the constitutional prohibition. U.S.Const. Art. I, Sect 9, Cl. 3 (as to Congress); Art. I, Sec. 10 (as to state legislatures).  
[Black’s Law Dictionary, Sixth Edition, p. 1185, Emphasis added]

The above restrictions form the basis of why the U.S. Congress and the states cannot write statutes and the executive branch cannot write implementing regulations authorizing the IRS to impose financial penalties on natural persons for noncompliance with Subtitle A income taxes absent a judicial trial, nor can they collect any penalties without a trial. The following easily verifiable facts prove our point:

- That there is no implementing C.F.R. or Federal Register regulation providing IRS with the authority to assess any kind of financial penalties, including late payment fees, frivolous return fees, etc.

<sup>38</sup> Adapted from section 5.4.11 of the *Great IRS Hoax*.



- The definition of “person” found in Subtitle F confirms that penalties may not be applied against natural persons. In fact, all such penalties are only applicable to Title 27 taxes relating to Alcohol, Tobacco, and Firearms against corporations under Subtitles D and E!

Whenever the government seeks to impose penalties for violations of the Internal Revenue Code, they have the burden of proof to show that the person against whom the penalty is imposed is liable for the penalty:

[26 U.S.C. §6703](#)

(a) *BURDEN OF PROOF.*—

*In any proceeding involving the issue of whether or not any person is liable for a penalty under 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.”*

Most IRS agents are made blissfully unaware of the above facts by their supervisors but they are nevertheless true. You will never hear IRS admit to this, because it is their most important and most secret weapon against the vast majority of Americans, who are natural persons. By way of example, below is the section right out of their own regulations found at the government’s own website at <https://www.law.cornell.edu/cfr/text/26/301.6671-1> that describes the ONLY persons who can be assessed penalties related to Internal Revenue Code, Subtitle A income taxes:

*TITLE 26--INTERNAL REVENUE  
Additions to the Tax and Additional Amounts--Table of Contents  
[Sec. 301.6671-1 Rules for application of assessable penalties.](#)*

(b) *Person defined.*

*For purposes of subchapter B of chapter 68, the term “person” includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.*

Even more interesting, is that the above not only doesn’t apply to most Americans: It also doesn’t apply to most corporations or partnerships either! Why?...because the corporations or partnerships mentioned above must be registered in the *District of Columbia* (the federal zone). State-(only) chartered corporations or partnerships that aren’t involved in foreign commerce aren’t liable for IRS penalties because they aren’t within the territorial jurisdiction of the IRS either. Furthermore, the only type of employee who can be penalized is an employee of a U.S. corporation registered in the District of Columbia and who is involved in reporting and complying with taxes for the corporation, and NOT for himself individually!

### **9.3 Criminal Provisions of I.R.C. only apply to federal “employees” and “officers” of federal (not state) corporations<sup>39</sup>**

[26 U.S.C. §7343](#) defines the legal “person” who may be held criminally liable under the Internal Revenue Code for failure to comply with the code. Below is the content of that statute:

[26 U.S.C. §7343](#): *Definition of term “person”*

**Person** - *The term “person” as used in this chapter includes an officer or employee of a [federal] 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.*

Ah...so when a real-live-flesh-and-blood person (known in law as a “natural person”) is held accountable for criminal non-compliance with the law, he is held accountable only in his capacity as the officer or employee, under a duty to perform, on behalf of the “legal fiction” called a corporation. The same kind of constraint also applies to liability for penalties as

<sup>39</sup> Adapted from section 5.4.14 of the *Great IRS Hoax*.

well, as we explained in the previous section, where we talked about the definition of “person” found in [26 C.F.R. § 301.6671-1](#). Once again: you are sovereign and the government is the servant and not the master. The only people the government can boss around and abuse in a free country are those who volunteer and consent to such abuse by volunteering to receive taxable government privileges as a corporation!

You might then ask, where does the “duty to perform the act” come from for this corporate employee? The *Great IRS Hoax*, Form #11.302, Section 5.6.1 proves that there is no liability statute within the I.R.C. imposing a legal duty to pay the tax, so it must come from somewhere else. The place it comes from, in fact, is the federal employment position you contracted for by signing and submitting the SS-5, W-4, and 1040 forms. This conclusion is proved later in section 11. The federal employment and agency you maintain as a Social Security Trustee is where the fiduciary duty comes from, which is mentioned in [26 U.S.C. §§6901](#) and 6903. A trustee is a person exercising agency on the part of his employer, which is the Social Security Trust. The trust, in turn, is an “employee” of the federal corporation called the United States government. You as a Social Security trustee and agent are an “officer or employee of a federal corporation”, because the United States government identifies itself as a federal corporation under [28 U.S.C. §3002](#)(15)(A). When payments of deferred employment compensation called “Social Security Benefits” are made by the mother corporation, the “United States”, they are made not to you as an individual, but to the trust. This is evident by the fact that the payments are made to the All Caps straw man name in association with the Trustee license number, which is the Social Security Number. If you sign the check, you are admitting or consenting that you are acting as a Trustee, and therefore federal “employee”.

#### **9.4 Absence of implementing regulations Confirms ONLY proper Enforcement Audience for I.R.C. is Federal instrumentalities<sup>40</sup>**

Implementing regulations are the official agency interpretation of the laws passed by Congress in the Statutes at Large. It is the regulations which the agency enforces against the public, not the statute directly. Because of this, all regulations passed by any agency which may adversely affect the general public must be published in the Federal Register before they become enforceable. This is a fundamental requirement of due process of law guaranteed by the Constitution, Fifth Amendment.

Within federal law, regulations are called “rules” and writing of regulations is called “rulemaking”. Regulations relating only to officers, employees or agents of the federal government need **not** be published in the Federal Register, according to [44 U.S.C. §1505\(a\)](#).

[TITLE 44 > CHAPTER 15 > Sec. 1505.](#)  
[Sec. 1505. - Documents to be published in Federal Register](#)

*(a) Proclamations and Executive Orders; Documents Having General Applicability and Legal Effect; Documents Required To Be Published by Congress.*

*There shall be published in the Federal Register -*

*(1) Presidential proclamations and Executive orders, except those not having general applicability and legal effect or effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof;*

*(2) documents or classes of documents that the President may determine from time to time have general applicability and legal effect; and*

*(3) documents or classes of documents that may be required so to be published by Act of Congress.*

*For the purposes of this chapter every document or order which prescribes a penalty has general applicability and legal effect.*

*[Emphasis added]*

Notice the phrase above “For the purposes of this chapter, every document or order which prescribes a penalty has general applicability and legal effect”. This would include both civil and criminal penalties under the I.R.C., and yet we find that NO implementing regulations or even the original statutes themselves which impose criminal or civil penalties, have ever been published in the Federal Register.

<sup>40</sup> Adapted from sections 3.12 and 3.12.3 of the *Great IRS Hoax*.

The same provision found in [44 U.S.C. §1505](#)(a)(1) above is again repeated in [5 U.S.C. §553](#)(a):

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 553](#)  
[§ 553. Rule making](#)

- (a) This section applies, according to the provisions thereof, except to the extent that there is involved—  
(1) a military or foreign affairs function of the United States; or  
(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.
- (b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—  
(1) a statement of the time, place, and nature of public rule making proceedings;  
(2) reference to the legal authority under which the rule is proposed; and  
(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. Except when notice or hearing is required by statute, this subsection does not apply—  
(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or  
(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
- (c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, Sections [556](#) and [557](#) of this title apply instead of this subsection.
- (d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—  
(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;  
(2) interpretative rules and statements of policy; or  
(3) as otherwise provided by the agency for good cause found and published with the rule.
- (e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.  
[Emphasis added]

Note that only a handful of groups are specifically exempted from the requirement for publication in the Federal Register of all enforcement provisions within all laws, which are:

1. “A military and 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).

There is a very good reason why implementing regulations that only affect federal employees, contracts, and benefits need not be published in the Federal Register to be enforceable in court. The reason relates to the nature of the Separation of Powers within our Republican government. The Legislature writes all laws, and most of these laws direct the activities of the Executive Branch. Laws passed by Congress in the Legislative Branch essentially amount to a direct and immediate command to its “employees” in the Executive Branch to do certain things. If these commands had to be interpreted by the Executive Branch itself and published as Implementing Regulations in the Federal Register before they would be enforceable against federal workers, then the servant, which is the Executive Branch, could simply go on strike by refusing to write implementing regulations. This would allow the servant, which is the Executive Branch, to routinely disobey its Master, the Legislative Branch, with impunity, resulting in chaos and a dysfunctional government.

Typically, IRS agents who want to deceive you about the very limited extent of their lawful authority will cite you a statute for liability or penalties but cannot give you the implementing regulation, because there aren’t any, and this definitely does not satisfy the burden of proof on the agent! The reason there aren’t any implementing regulations is because as we say throughout this book, Subtitle A income taxes ONLY apply to elected or appointed officers, or “public officers” of the United States government, and [44 U.S.C. §1505\(a\)](#) says that implementing regulations aren’t required for these people.

In fact, the only people who can be prosecuted for “failure to file” under [26 U.S.C. §7201](#) are officers and employees of the United States when acting in their official capacity as an agent of the government. The federal courts have indirectly confirmed this fact. For instance, here is what one of them said about the fact that there are no implementing regulations for federal tax crimes:

1                   *"Federal income tax regulations governing filing of income tax returns do not require Office of Management*  
2                   *and Budget control numbers because **requirement to file tax return is mandated by statute, not by regulation.**"*  
3                   *[U.S. v. Bartrug, E.D.Va.1991, 777 F.Supp. 1290 (1991), affirmed 976 F.2d. 727, certiorari denied 113 S.Ct.*  
4                   *1659, 507 U.S. 1010, 123 L.Ed.2d. 278]*

5       What the above court just admitted is that only federal employees, officers, contractors, and benefits recipients, for whom  
6       implementing regulations are not required, can be the proper subject of Subtitle A of the Internal Revenue Code. You see  
7       how sneaky this is?

8       All enforcement actions under Subtitle A of the Internal Revenue Code must be authorized by an implementing regulation  
9       written by the Secretary and published in the Federal Register. Enforcement actions include: 1. Requirement to keep  
10      records; 2. Authority to make an assessment of liability; 3. Authority to institute collection actions; 4. Authority to assess  
11      penalties. If the IRS attempts an enforcement action that is not specifically authorized by an implementing regulation, then  
12      they are acting illegally, and if that unlawful act results in an injury to a private citizen, the IRS agent who did the act can  
13      be held personally liable for his tort, is not protected for his wrongdoing by any law, and may not assert sovereign or  
14      official immunity as a defense. The act by the Secretary of writing an implementing regulation accomplishes the following:

- 15      1. Makes a specific agency in the Executive Branch of the government responsible for enforcing and/or executing a  
16         specific statute.
- 17      2. Makes a specific person or role within an agency responsible for a specific function in the execution of the statute.
- 18      3. Provides detailed instructions that implement the intent of the statute and which ensure that the statute is carried out in  
19         a manner that is consistent with the law and prevailing agency directives and rulings.
- 20      4. Gives all persons in the general public who could be adversely affected by the proposed regulation due notice and  
21         opportunity to intervene or influence its passage.

22      The effect of failure to publish implementing regulations authorizing specific enforcement actions is identified in 26 C.F.R.  
23      §601.702(a)(2)(ii), and it indicates that the rights of no member of the public at large may be adversely affected by the  
24      actions of an agency:

25                   26 C.F.R. §601.702 Publication and public inspection

26                   (a)(2)(ii) Effect of failure to publish.

27                   *Except to the extent that a person has actual and timely notice of the terms of any matter referred to in*  
28                   *subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is***  
29                   ***not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is***  
30                   ***not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example,***  
31                   ***any such matter which imposes an obligation and which is not so published or incorporated by reference will***  
32                   ***not adversely change or affect a person's rights.***

33      To identify whether a specific regulation has been published in the Federal Register, a citation is required at the bottom of  
34      the regulation in accordance with 1 C.F.R. §21.43. Such a citation might look like the following, which is from 26 C.F.R.  
35      §601.702:

36                   [32 FR 15990, Nov. 22, 1967]

37      The citation above means volume 32 of the Federal Register, page 15990.

38      All regulations written by the Secretary of the Treasury may not exceed the scope or authority of the statute, because the  
39      Secretary is not authorized to write law or legislate:

40                   *"When enacting §7206(1) Congress undoubtedly knew that the Secretary of the Treasury is empowered to*  
41                   *prescribe all needful rules and regulations for the enforcement of the internal revenue laws, so long as they*  
42                   *carry into effect the will of Congress as expressed by the statutes. Such regulations have the force of law. **The***  
43                   ***Secretary, however, does not have the power to make law.*** Dixon v. United States, *supra.*"  
44                   [iUnited States v. Levy, 533 F.2d. 969 (1976)]

45      The Secretary is only authorized under 26 U.S.C. §7805(a) to interpret and apply the law as written by Congress in the  
46      statutes because that is the limit of his delegated authority. The Federal Register Act, 44 U.S.C. Chapter 15, requires that  
47      all regulations that will affect the public at large must be published in the Federal Register. If the Secretary has written a

regulation but not bothered to publish it in the Federal register, then it may not be applied against the public at large. Every statute or regulation that has been published in the Federal Register will have an authority citation at the end stating so, as required by 1 C.F.R. §21.40 of a form like the following:

[50 FR 12469, Mar. 28, 1985, as amended at 54 FR 9682, Mar. 7, 1989]

The citation above refers to volume 50 of the Federal Register, page 12469. Most of the definitions for income taxes come from 26 U.S.C Sections 3401 and 7701, to be precise, but guess what, you won't find pointers in the CFR's or IRS publications back to these original and "foundational" definitions in the U.S. Code. The terms "employer" and "employee" have a much more restrictive meaning in 26 U.S.C. §§3401 and 7701 than they do in the CFR's or the IRS publications. Some definitions, like that for "withholding agent" only appear in the 26 U.S. Code and not in the 26 CFR. We assume this is the case in order to make the CFR's more confusing for IRS personnel as a way to encourage them to misinterpret the tax code in a manner that advantages the government financially. Also, if the IRS doesn't define their terms, then the concept of "willfulness" as it relates to violating Citizen's rights by wrongfully taking more taxes than is owed becomes less threatening for IRS agents. They can just "claim ignorance" when prosecuted for malfeasance, which is something we citizens could never do as it relates to paying our taxes! This devious tactic is called "plausible deniability".

*"...we think it important to note that the Act's civil and criminal penalties attach only upon violation of regulations promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone."*  
[California Bankers Assn. v. Shultz, 416 U.S. 21 (1974)]

*"An individual cannot be prosecuted for violating the act unless he violates the implementing regulations."*  
[United States v. Reinis, 794 F.2d. 506 (9<sup>th</sup> Cir. 1986), United States v. Murphy, 809 F.2d. 1427 (9<sup>th</sup> Cir. 1987)]

*"Criminal penalties...can attach only upon violation of regulations promulgated by the Secretary."*  
[U.S. v. Reinis, 794 F.2d. 506]

***"Individual cannot be prosecuted** for violating Currency Reporting Act **unless he violates the implementing regulations.**"*  
[31 U.S.C.A. §5311 et. seq.]

***CONSPIRACY:** "Where regulations...did not impose duty to disclose information, failure to disclose was not conspiracy to defraud government."*  
[18 USCA, 31 U.S.C.A. §5311]

*"Because Congress has delegated to the Commissioner the power to promulgate 'all needful rules and regulations for the enforcement of (the Internal Revenue Code) 26 U.S.C. §7805(a), we must defer to his regulatory interpretations of the Code so long as they are reasonable."*  
[National Muffler Dealers Assn., Inc. v. United States, 440 U.S. 472, 476-477, 99 S.Ct. 1304, 1306-1307, 59 L. Ed.2d. 519.]

*"Due process requires that penal statutes define criminal offense with sufficient clarity that the ordinary person can understand what conduct is prohibited."*  
[U.S.C.A Const. Amend 5]

Without the statute there is no authority for implementing a regulation and without the regulation, no civil or criminal penalties can be imposed. Further regulations cannot change or enlarge the operation of the statute but only clarify it.

*"To the extent that the regulations implement the statute, they have the force and effect of law.. The regulation implements the statute and cannot vitiate or change the statute..."*  
[Spreckles v. C.I.R., 119 F.2d. 667]

Under Curley v. U.S., 791 F.Supp. 52 (E.D.N.Y. 1992), at 55, we read:

(6) "Plaintiff relies heavily on the Internal Revenue Manual ("IRM") in her argument that the assessment is procedurally valid. However, **the IRM does not have the force and effect of law**" United States v. New York Telephone Co., 644 F.2d. 953, 959 n. 10 (2<sup>nd</sup> Cir. 1981). Since the **IRM is not law**, any alleged failure to



1 *adhere to its provisions will not necessarily result in an invalid assessment. See Foxman v. Renison, 449 U.S.*  
2 *993, 101 S.Ct. 530, 66 L.Ed.2d. 290 (1980). 449 U.S. 1119, 101 S.Ct. 932, 66 L.Ed.2d. 848 (1981). Kopunek v.*  
3 *Director of Internal Revenue, 528 F.Supp. 134, 137 (1981).*

4 (7) *However, failure to adhere to agency regulations may amount to a denial of due process if the regulations*  
5 *are required by the constitution or statute.” Arzanipour v. Immigration and Naturalization Service, 866 F.2d.*  
6 *743, 746 (5<sup>th</sup> Cir. 1989).*  
7 *[Curley v. U.S., 791 F.Supp. 52 (E.D.N.Y. 1992)]*

8 The type of regulation that must be violated to incur civil or criminal penalties must be either a legislative or interpretive  
9 regulation written by the Department of the Treasury. That means it must either be a Part 1 (26 C.F.R. § 1.XXXX) or a  
10 Part 301 (26 C.F.R. §301.XXXX) regulation. Part 601 regulations, which apply to Subtitle F of the Internal Revenue Code,  
11 do NOT qualify as legislative or interpretive regulations for law enforcement because they are procedural in nature and  
12 don’t necessarily even apply to the agency (IRS in this case) they are written for in all cases!

13 The table below provides a list of the ONLY enforcing regulations for Title 26, mostly under Subtitle F, which is  
14 Procedures and Administration:  
15

**Table 9: Enforcement Regulations**

<i>Title 26 U.S.C.</i>	<i>Description</i>	<i>Location of Enforcement Regulations</i>
§6020	Returns prepared for or executed by Secretary	27 C.F.R. Parts 53, 70
§6201	Assessment authority	27 C.F.R. Part 70
§6203	Method of assessment	27 C.F.R. Part 70
§6212	Notice of deficiency	No Regulations
§6213	Restrictions applicable to: deficiencies, petition to Tax Court	No Regulations
§6214	Determination by Tax Court	No Regulations
§6215	Assessment of deficiency found by Tax Court	No Regulations
§6301	Collection authority	27 C.F.R. Parts 24, 25, 53, 70, 250, 270, 275
§6303	Notice and demand for tax	27 C.F.R. Parts 53, 70
§6321	Lien for taxes	27 C.F.R. Part 70
§6331	Levy and Distraint	27 C.F.R. Part 70
§6332	Surrender of property subject to levy	27 C.F.R. Part 70
§6420	Gasoline used on farms	No Regulations
§6601	Interest on underpayment, nonpayment, or extensions for payment, of tax	27 C.F.R. Parts 70, 170, 194, 296
§6651	Failure to file tax return or to pay tax	27 C.F.R. Parts 24, 25, 70, 194
§6671	Rules for application of assessable penalties	27 C.F.R. Part 70
§6672	Failure to collect and pay over tax, or attempt to evade or defeat tax	27 C.F.R. Part 70
§6701	Penalties for adding and abetting understatement of tax liability	27 C.F.R. Part 70
§6861	Jeopardy assessments of income, estate, and gift taxes	No Regulations
§6902	Provisions of special application to transferees	No Regulations
§7201	Attempt to evade or defeat tax	No Regulations
§7203	Willful failure to file return, supply information, or pay tax	No Regulations
§7206	Fraud and false statements	No Regulations
§7207	Fraudulent returns, statements and other documents	27 C.F.R. Part 70
§7210	Failure to obey summons	No Regulations
§7212	Attempts to interfere with administration of Internal Revenue Laws	27 C.F.R. Parts 170, 270, 275, 290, 295, 296
§7342	Penalty for refusal to permit entry, or examination	27 C.F.R. Parts 24, 25, 170, 270, 275, 290, 295, 296
§7343	Definition of term “person”	No Regulations
§7344	Extended application of penalties relating to officers of the Treasury Department	No Regulations
§7401	Authorization (judicial proceedings)	27 C.F.R. Part 70
§7402	Jurisdiction of district courts	No Regulations
§7403	Action to enforce lien or to suspend property to payment of tax	27 C.F.R. Part 70
§7454	Burden of proof in fraud, foundation manager, and transferee cases	No Regulations
§7601	Canvass of districts for taxable persons and objects	27 C.F.R. Part 70
§7602	Examination of books and witnesses	27 C.F.R. Parts 70, 170, 296
§7603	Service of summons	27 C.F.R. Part 70
§7604	Enforcement of summons	27 C.F.R. Part 70
§7605	Time and place of examination	27 C.F.R. Part 70
§7608	Authority of Internal Revenue enforcement officers	27 C.F.R. Parts 70, 170, 296

Most noteworthy of the above is that ALL of the implementing and enforcement regulations identified in Subtitle F are associated with Title 27, Alcohol, Tobacco, and Firearms, and NOT Subtitle A Income taxes! There simply are no implementing regulations under the tax imposed in I.R.C. §1 that authorize the use of distraint by the Internal Revenue Service. Distraint, also called enforcement, includes the use of levy, assessment, penalties, summons, or collection to enforce a tax. Why? Because there is no statute making anyone liable for the tax! Since the income tax is a voluntary

donation program for the municipal government of the District of Columbia created mainly for elected or appointed government employees, then most Americans aren't the proper subject of the tax and the IRS can't force them to participate without enforcement authority! This point is key to your success in all your dealings with the Internal Revenue Service. If there were enforcement provisions for the income tax imposed in Section 1 of the I.R.C., they would be written in the right-hand column above as "26 C.F.R. Part 1", but you can see that they don't exist. You can check this for yourself at the following web address:

<https://www.law.cornell.edu/ptoa/index.html>

The statute and the enforcement regulations must together form a pair that constitutes the law. If either of the two don't exist, then the law cannot be enforced!

*"Here the statute is not complete by itself, since it merely declares the range of its operation and leaves to its progeny the means to be utilized in the effectuation of its command. But it is the statute which creates the offense of the willful removal of the labels of origin and provides the punishment for violations. The regulations, on the other hand, prescribe the identifying language of the label itself, and assign the resulting tags to their respective geographical areas. Once promulgated, [361 U.S. 431, 438] these regulations, called for by the statute itself, have the force of law, and violations thereof incur criminal prosecutions, just as if all the details had been incorporated into the congressional language. **The result is that neither the statute nor the regulations are complete without the other, and only together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other.**"*  
[U.S. v. Mersky, 361 U.S. 431 (1960)]

*"...the Act's civil and **criminal penalties attach only upon violation of the regulation promulgated by the Secretary; if the Secretary were to do nothing, the Act itself would impose no penalties on anyone.**The Government urges that since only those who violate these regulations [not the Code] may incur civil or criminal penalties, it is the actual regulations issued by the Secretary of the Treasury, and not the broad authorizing language of the statute, which are to be tested against the standards of the Fourth Amendment; and that when so tested they are valid."*  
[Calif. Bankers Assoc. v. Shultz, 416 U.S. 21, 44, 39 L.Ed.2d. 812, 94 S.Ct. 1494]

***"Failure to adhere to agency regulations [by the IRS or other agency] may amount to denial of due process if regulations are required by constitution or statute..."***  
[Curley v. United States, 791 F.Supp. 52]

*"Although the relevant statute authorized the Secretary to impose such a duty, his implementing regulations did not do so. Therefore we held that there was no duty to disclose..."*  
[United States v. Murphy, 809 F.2d. 142, 1431]

Based on the foregoing, a government official attempting an enforcement action against those domiciled in states of the Union who are protected by the Constitution has the burden of providing one of the following two forms of legal evidence without which the government employee loses enforcement authority and is engaging in a constitutional tort which. This tort results in a surrender of official and sovereign immunity on the part of the employee:

1. The government employee produces an implementing regulation published in the Federal Register which authorizes the enforcement action.
2. The government produces legally admissible evidence conforming with the Federal Rules of Evidence which proves that the person who is the subject of the enforcement action is a member of one of the three groups that are specifically exempted from the requirement for publication in the Federal Register, which are:
  - 2.1. "A military and foreign affairs function of the United States". 5 U.S.C. §553(a)(1).
  - 2.2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. §553(a)(2).
  - 2.3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". 5 U.S.C. §1505(a)(1).

Usually, the only evidence in the possession of the government which might link a person to membership in any one of the above exempted groups is

1. Information Returns such as IRS Forms W-2, W-4, 1042, 1098, and 1099

2. A tax return filled out by the subject and signed under penalty of perjury. This is legally admissible evidence that you are a “public official”, because EVERYTHING that goes on an IRS Form 1040 is “trade or business”, which is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office”. See the following for proof:

The “Trade or Business” Scam, Form #05.001  
<http://sedm.org/Forms/FormIndex.htm>

3. An SS-5 form. This proves that the party is a federal benefit recipient who is an “individual” as defined in 5 U.S.C. §552a(a)(2) and “federal personnel” entitled to receive federal retirement benefits as defined in 5 U.S.C. §552a(a)(13). Both of these entitled “federal personnel” and “individuals” are government employees or agents, as exhaustively proven in the memorandum of law below:

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

If you would like a detailed study of the conclusions of this section that you can file with your pleadings in court, see the following memorandum of law on our website:

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

## 10 How being a federal instrumentality Effects Choice of Law in Tax Litigation<sup>41</sup>

Within 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 Rule 17](#)(b), which says in pertinent part:

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.

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

Why Domicile and Becoming a “Taxpayer” Require Your Consent, Family Guardian Fellowship  
<http://famguardian.org/Subjects/Taxes/Articles/DomicileBasisForTaxation.htm>

We also emphasize that a person with a domicile within a state of the Union does NOT maintain a domicile within the “United States” as defined in the Internal Revenue Code, [26 U.S.C. §7701](#)(a)(9) and (a)(10). See:

An Investigation Into the Meaning of the Term “United States”, Alan Freeman  
<http://famguardian.org/Subjects/Taxes/ChallJurisdiction/Definitions/freemaninvestigation.htm>

Therefore, by implication, the I.R.C. may not be cited against a person domiciled in a state of the Union. The only exception to this requirement is the case of a person who is either a federal “employee”, a federal contractor, or benefit recipient. This is alluded to in Federal Rule of Civil Procedure 17(b) above, when it says:

<sup>41</sup> Adapted from memorandum of law entitled Reasonable Belief About Income Tax Liability, Form #05.007, Section 4, available from: <http://sedm.org/Forms/05-MemLaw/ReasonableBelief.pdf>

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

9 American Jurisprudence, 2d  
10 United States  
11 § 42 Interest on claim [77 Am Jur 2d UNITED STATES]

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

17 Federal employment, contract, or benefit claims may not be litigated in a state court because of the Separation of Powers  
18 Doctrine. Therefore, they must be litigated in federal court as a contract claim, and the rules of decision must be only  
19 federal law, based on the above. The laws to be applied, under Federal Rule of Civil Procedure Rule , are the laws under  
20 which the United States Government federal corporation are organized, which are the U.S. Code, instead of state law.  
21 What makes the issue justiciable is that it is a federal “benefit”, employment, or contract issue arising under 5 U.S.C.  
22 §553(a)(2). Our memorandum of law below also proves that Subtitle A of the I.R.C. attaches to people in states of the  
23 Union as “private law” or “contract law”:

Requirement for Consent, Form #05.003  
<http://sedm.org/Forms/FormIndex.htm>

24 The Internal Revenue Code, Subtitle A therefore attaches to people as “private law”, “contract law” and “special law”.  
25 Even the U.S. Supreme Court admitted this when it said:

26 “Even if the judgment is deemed to be colored by the nature of the obligation whose validity it establishes, and  
27 we are free to re-examine it, and, if we find it to be based on an obligation penal in character, to refuse to  
28 enforce it outside the state where rendered, see *Wisconsin v. Pelican Insurance Co.*, 127 U.S. 265, 292, et seq.  
29 8 S.Ct. 1370, compare *Fauntleroy v. Lum*, 210 U.S. 230, 28 S.Ct. 641, **still the obligation to**  
30 **pay taxes is not penal. It is a statutory liability, quasi**  
31 **contractual in nature, enforceable, if there is no exclusive**  
32 **statutory remedy, in the civil courts by the common-law action**  
33 **of debt or indebitatus assumpsit.** *United States v. Chamberlin*, 219 U.S. 250, 31 S.Ct.  
34 155; Price v. United States, 269 U.S. 492, 46 S.Ct. 180; *Dollar Savings Bank v. United States*, 19 Wall. 227;  
35 and see Stockwell v. United States, 13 Wall. 531, 542; *Meredith v. United States*, 13 Pet. 486, 493. **This was**  
36 **the rule established in the English courts before the Declaration of Independence.** *Attorney General v. Weeks*,  
37 *Bunbury's Exch. Rep.* 223; *Attorney General v. Jewers and Batty*, *Bunbury's Exch. Rep.* 225; *Attorney General*  
38 *v. Hatton*, *Bunbury's Exch. Rep.* [296 U.S. 268, 272] 262; *Attorney General v. —*, 2 Ans.Rep. 558; see  
39 *Comyn's Digest* (Title 'Dett,' A, 9); 1 *Chitty on Pleading*, 123; cf. *Attorney General v. Sewell*, 4 M.&W. 77. “  
40 *[Milwaukee v. White*, 296 U.S. 268 (1935)]

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

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

*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]*

To give you one simple example of how Subtitle A of the I.R.C. attaches to people in states of the Union as a federal employment contract issue, consider the W-4. The regulations describing the 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:

1. Makes you at least LOOK like a “Trustee” over federal property. See:  

[Resignation of Compelled Social Security Trustee](http://sedm.org/Forms/FormIndex.htm), Form #06.002  
<http://sedm.org/Forms/FormIndex.htm>
2. Makes you LOOK like a federal “employee”, 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).
3. Makes you LOOK like an “officer of a corporation”, who is liable under [26 U.S.C. §6671](#)(b) for all I.R.C. penalties and liable for all criminal provisions of the I.R.C. under [26 U.S.C. §7343](#).
4. Shifts your legal domicile to the federal zone, because that is the domicile of the trust that you now represent.
5. Makes the Social Security Number into a “Taxpayer Identification Number” and a license number for the Trustee, which is now you. More at the following:

6. Makes your earnings LOOK like federal revenues and you into a “transferee” and “fiduciary” over federal payments. See [26 U.S.C. §§6901](#) and 6903.
7. Makes you LOOK like a federal subcontractor or “Kelley Girl”.
8. Makes the 1040 form into a profit and loss statement for a federal business trust.
9. Makes you LOOK like a withholding agent who is liable under [26 U.S.C. §1461](#) to “return” federal payments to your new employer, the federal government.

Obviously, it is a crime under 18 U.S.C. §§210, 211, and 912 to “elect” or “appoint” yourself into a public office by filling out a government form, or to bribe a withholding agent with withholdings for the “privilege” of being regarded as a public officer. Therefore, the use of IRS Form W-4 to create new public offices is a crime that MUST be prosecuted. Since this abuse of IRS forms is the heart of the FRAUD of the income tax, the U.S. Attorney, through what we call “selective enforcement”, refuses to prosecute this crime to guarantee a big paycheck and retirement on his part. People who have illegally and criminally impersonated public officers by doing the above are what we call “dissimulated”, meaning they have been made to appear in the law like that which they are NOT. For some funny videos on this subject, see:

1. Hospital  
<https://sedm.org/education/liberty-university/liberty-university-2-10-1-hospital/>
2. Airplane  
<https://sedm.org/education/liberty-university/liberty-university-2-10-2-airplane/>
3. Home  
<https://sedm.org/education/liberty-university/liberty-university-2-10-3-home/>
4. Dad in Car  
<https://sedm.org/education/liberty-university/liberty-university-2-10-4-dad-in-car/>
5. Park  
<https://sedm.org/education/liberty-university/liberty-university-2-10-5-park/>

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

1. *Great IRS Hoax*, Form #11.302, Sections 5.6.12 and 5.6.14:  
<http://sedm.org/Forms/FormIndex.htm>
2. *Resignation of Compelled Social Security Trustee*, Form #06.002:  
<http://sedm.org/Forms/FormIndex.htm>

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 courts are administrative courts 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 7.4 of the *Tax Fraud Prevention Manual*, Form #06.008 et seq for further details.
  - 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. Postal fraud. See Article 1, Section 8, Clause 7 of the U.S. Constitution..
      - 1.2.1.2. Counterfeiting under Article 1, Section 8, Clause 6 of the U.S. Constitution.
      - 1.2.1.3. Treason under Article 4, Section 2, Clause 3 of the U.S. Constitution.

- 1.2.1.4. Interstate commercial crimes under Article 1, Section 8, Clause 3 of the U.S. Constitution.
- 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 employees, as described in Title 5 of the U.S. Code.
  - 1.2.2.2. Federal contracts and “public offices”.
  - 1.2.2.3. Federal chattel property.
  - 1.2.2.4. Subtitle A of the Internal Revenue Code.
  - 1.2.2.5. 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*  
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.

This provision simply means that the IRS may not cite any court case below the Supreme Court against anyone other than the party who litigated it.

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). By “federal common law”, we mean federal judicial precedent that governs legal disputes over matters under exclusive state control, jurisdiction, and sovereignty. This would include all subject matters not delegated to the federal government by the federal Constitution. The reason why there can be no federal common law within states of the Union is that the federal courts cannot interfere with the sovereignty of the state courts and governments within their exclusive spheres. See Alden v. Maine, 527 U.S. 706 (1999) for a thorough explanation of this concept of sovereign immunity within judicial tribunals that is the foundation of separation of powers between the state and federal governments. Consequently, the rulings of federal district and circuit courts have no relevancy to state citizens domiciled in states of the union who do not declare themselves to be “U.S. citizens” under 8 U.S.C. §1401 and who would litigate under diversity of citizenship, as described in 28 U.S.C. §1332.

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

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

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

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

7                   *"For federal common law, see that title.*

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

- 11   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  
12   decision in federal courts. This means that federal courts MUST cite state law and not federal law in all tax cases and  
13   MAY NOT cite federal case law.
- 14   5. The [Federal Rule of Civil Procedure 17\(b\)](#) say that the capacity to sue or be sued is determined by the law of the  
15   individual's domicile. This means that if a person is domiciled in a state and not within an enclave, then state law are  
16   the rules of decision rather than federal law. Since state income tax liability in nearly every state is dependent on a  
17   federal liability first, this makes an income tax liability impossible for those domiciled outside the federal zone.
- 18   6. Any government representative, especially from the Department of Justice or the IRS, who cites a case below the  
19   Supreme Court in the case of a person who is a "national" but not a "citizen" under federal law as described in this  
20   book, is abusing case law for political purposes, usually with willful intent to deceive the hearer. Such devious tactics  
21   can only be described as abuse of case law for political, rather than lawful, purposes. Federal courts, incidentally, are  
22   NOT allowed to involve themselves in such "political questions", and therefore should not allow this type of abuse of  
23   case law, but judges who are fond of increasing their retirement benefits will often acquiesce if you don't call them on  
24   it as an informed American. This kind of bias on the part of federal judges, incidentally, is highly illegal under [28](#)  
25   [U.S.C. §144](#) and [28 U.S.C. §455](#).

26   The book [\*Conflicts in a Nutshell\*](#) confirms some of the above conclusions by saying the following:

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

32                   *"The result is that the federal court in a diversity case sits in effect as just another state court, seeking out*  
33                   *forum state law for all substantive issues. The Rules of Decision Act does not apply to procedural matters,*  
34                   *however; for matters of procedure a federal court, sitting in a diversity or any other kind of case, applies its*  
35                   *own rules. This has been so since 1938, when, coincidentally (Erie was also decided in 1938), the Federal*  
36                   *Rules of Civil Procedure arrived on the scene."*  
37                   *[Conflicts in a Nutshell, David D. Seigel, West Publishing, 1994; ISBN 0-314-02952-4, p. 317]*

38   See section 6.1.4 of the [Tax Fraud Prevention Manual](#), Form #06.008 for further details on how the DOJ, IRS, and the  
39   Federal Judiciary abuse case law for political rather than legitimate or Constitutional legal purposes in order to encourage  
40   and foster false "presumption". Consequently, as you read the cites provided in this chapter, all of which derive from  
41   federal courts, you must take them with a grain of salt and a healthy bit of discretion.

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

43

1 Table 10: Choice of law in tax litigation

#	Description	Choice of law	
		Persons domiciled in states of the Union with no federal contracts, benefits, agency, or employment	Federal employees, contractors, benefit recipients, and agents
1	Subject matter constituting authority federal jurisdiction	None	Federal employment, contracts, agency
2	Authorities on source of jurisdiction	<a href="#">FRCP Rule 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="#">FRCP Rule 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, 527 U.S. 706</a> (1999))	Federal court (See <a href="#">Alden v. Maine, 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	Federal zone (see <a href="#">26 U.S.C. §7701(a)(9)</a> and (a)(10) and 4 U.S.C. §110(d))
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., 22 U.S. 738 (1824)</a> 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 “Resignation of Compelled Social Security Trustee” document at: <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
12	Admissible evidence in a tax trial	State law Statutes at Large after 1939. See 53	Whatever the judge wants. There can be no violation of due process for people



		Stat. 1, Section 4. Rulings of the Supreme Court and not lower courts. See Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8	who are not protected by the Constitution.
13	<b>Enforcement of federal law requires ALL of the following</b>	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/MemLaw/PositiveLaw.pdf">http://sedm.org/Forms/MemLaw/PositiveLaw.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> .

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

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

On the other hand, the party on the right, the federal employee or contractor, has essentially no Constitutional rights. This was explained by the U.S. Supreme Court as follows:

*"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)]

## **11 Private people cannot lawfully consent to be statutory "taxpayers"**

Next, we must consider whether and how one may lawfully become a statutory "taxpayer" and therefore public officer. Is it lawful to consent to sign this I.R.C. Subtitles A and C "employment" or "public office" agreement, and at what point did you sign it and make yourself into a federal instrumentality? We'll answer that question in this section.

From the discussion so far, we know the following:

1. All the powers of the government, including all their enforcement powers against the public, are carried into operation ONLY through agency, which is created ONLY through either private contract or public office. Hence, without agency, there can be no enforcement powers and therefore power to regulate or tax conduct.

*"All the powers of the government [including ALL of its civil enforcement powers against the public] must be carried into operation by individual agency, either through the medium of public officers, or contracts made with [private] individuals."*

[*Osborn v. Bank of U.S.*, [22 U.S. 738](#) (1824)]

2. The government cannot lawfully regulate, tax, or burden PRIVATE conduct, rights, or property and therefore can only tax, regulate, or impose duties against those LAWFULLY occupying public offices in the national and not state government.

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

3. Internal Revenue Code, Subtitles A and C are "private law", a franchise, and an excise equivalent to an employment agreement for those doing business as federal corporations or instrumentalities.
4. You must ALREADY lawfully occupy a public office BEFORE you can become a statutory "taxpayer". You cannot unilaterally "elect" yourself into public office by filling out any government form, and certainly not a tax form. In other words, public office is a PREDICATE status that must exist before a "taxpayer" can lawfully exist.
5. Public officers under federal law are officers of a federal corporation. This is confirmed by the definition of "person" found in 26 U.S.C. §§6671(b) and 7343.
6. The I.R.C. Subtitles A and C income tax is a tax upon earnings of federal and not state corporations, and not ALL earnings:

*"Income [corporate profit from foreign commerce, in the context of taxes upon states of the Union] 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)]

7. Only the earnings of the lawfully created office are the subject of the I.R.C. Subtitles A and C income tax and not ALL earnings, as the U.S. Supreme Court pointed out in *Southern Pacific v. Lowe*. In that sense, it essentially behaves as a "public officer kickback program" and excise tax disguised to LOOK like a general income tax.

*"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 Stratten'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)].

If you would like to read an entire book on the subject of the I.R.C. Subtitles A and C functioning as a public officer kickback program, read the following wonderful book:

<i>IRS Humbug: Weapons of Enslavement</i> , Frank Kowalik, ISBN 0-9626552-0-1, 1991, Universalistic Publishers
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First of all, one may only lawfully serve in a public office by satisfying all the following criteria:

1. Consent to hold the office BEFORE being appointed or elected. Otherwise involuntary servitude in violation of the Thirteenth Amendment results.
2. Lawfully elected or appointed by a person with delegated authority to do so.
3. Take an oath of appointment prescribed in 5 U.S.C. §3331.
4. Cannot be a constitutional alien, meaning a foreign national.

*Treatise on the Law of Public Offices and Officers*  
*Book 1: Of the Office and the Officer: How Officer Chosen and Qualified*  
*Chapter I: Definitions and Divisions*

§2 How Office Differs from Employment.-A public office differs in material particulars from a public employment, for, as was said by Chief Justice MARSHALL, "although an office is an employment, it does not follow that every employment is an office. A man may certainly be employed under a contract, express or implied, to perform a service without becoming an officer."<sup>42</sup>

"We apprehend that the term 'office,'" said the judges of the supreme court of Maine, "implies a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office; and the exercise of such power within legal limits constitutes the correct discharge of the duties of such office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments and sometimes to another; still it is a legal power which may be rightfully exercised, and in its effects it will bind the rights of others and be subject to revision and correction only according to the standing laws of the state. An employment merely has none of these distinguishing features. A public agent acts only on behalf of his principal, the public, whose sanction is generally considered as necessary to give the acts performed the authority and power of a public act or law. And if the act be such as not to require subsequent sanction, still it is only a species of service performed under the public authority and for the public good, but not in the exercise of any standing laws which are considered as roles of action and guardians of rights."<sup>43</sup>

"The officer is distinguished from the employee," says Judge COOLEY, "in the greater importance, dignity and independence of his position; in being required to take an official oath, and perhaps to give an official bond; in the liability to be called to account as a public offender for misfeasance or non-feasance in office, and usually, though not necessarily, in the tenure of his position. In particular cases, other distinctions will appear which are not general."<sup>44</sup>

[A Treatise on the Law of Public Offices and Officers, Floyd Russell Mechem, 1890, pp. 3-4, §2;  
SOURCE: <http://books.google.com/books?id=g-I9AAAAIAAJ&printsec=titlepage>]

5. Serve ONLY where "expressly authorized" per 4 U.S.C. §72.

[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.*

Bypassing any of the above requirements for lawfully serving in public offices results in the party doing so being a "de facto officer" and committing many different crimes. An EXCLUSIVELY PRIVATE human who did not consent to volunteer and who does not lawfully occupy a public office is therefore committing the following crimes to either BECOME a statutory "taxpayer" public officer or ACT as if they are one:

1. 18 U.S.C. §911: Impersonating a U.S. citizen. A U.S. citizen is a franchise, and statutory "U.S. person" found in 26 U.S.C. §7701(a)(30) includes a statutory "U.S. citizen".
2. 18 U.S.C. §912: Impersonating a public officer. Those who accept or exercise the duties of a public officer without lawfully serving as one are committing this crime.
3. 18 U.S.C. §654: Conversion. The office is unlawfully converting PRIVATE property to a PUBLIC use if it treats the PRIVATE property of the officer as PUBLIC property or owned by the OFFICE rather than the OFFICER as a PRIVATE human without their express and informed consent.
4. 18 U.S.C. §201: Bribery of public officials and witnesses.
  - 4.1. Judges and jurors receiving federal "benefits" are bribed by income tax withholdings to treat anyone and everyone as a "taxpayer" and public officer.
  - 4.2. U.S. attorneys prosecuting tax crimes "radicalize" judges and jurors against defendants in tax crimes who don't want to pay by saying they refuse to pay "their fair share", which will raise the tax bill of the judge, U.S. attorney, and jurors. This is a criminal financial conflict of interest and makes the courtroom into the scene of a crime in violation of 18 U.S.C. §208. This tactic amounts to an act of international terrorism because the states of the Union are "nations" as declared by the U.S. Supreme Court.
5. 18 U.S.C. §210: Offer to procure appointive public office. Withholdings paid to the national government by those who are not lawfully elected or appointed into public office amount to bribes to TREAT the payor as a public officer.
6. 18 U.S.C. §211: Acceptance or solicitation to obtain appointive public office. The solicitation occurs by banks and

<sup>42</sup> United States v. Maurice, 2 Brock. (U.S.C.C.) 96.

<sup>43</sup> Opinion of Judges, 8 Greenl. (Me.) 481.

<sup>44</sup> Throop v. Langdon, 40 Mich. 678, 682; "An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power or for a fixed term with a successor elected or appointed. An employment is an agency for a temporary purpose which ceases when that purpose is accomplished." Cons. Ill., 1870, Art. 5, §24.

private employers placing conditions on or exercising discipline against those filing withholding paperwork that causes that paperwork to be false and the filer to illegally impersonate a public officer.

7. 18 U.S.C. §1512: Tampering with a witness. Financial institutions and employers who try to advise or discipline people in what withholding documents they submit or what is on those documents are criminally tampering with witnesses because the forms are signed under penalty of perjury and constitute testimony of a witness.
8. 18 U.S.C. §1516: Obstruction of federal audit. Anyone who is NOT a statutory “Taxpayer” but who is treated by the IRS as one is entitled to “audit” the books and make discovery of those accusing them of being one. Any attempt to interfere with that is a crime, yet the IRS does it routinely through all kinds of devious means. See our Forms #03.002, 03.011.

Therefore, it is a crime for a private human being to unilaterally “elect” themselves into public office and thereby impersonate any franchise status, including statutory “taxpayer”, “citizen”, “resident”, “withholding agent”, etc. Any attempt to confuse PRIVATE rights with PUBLIC rights by abusing “words of art” against those in a constitutional state therefore amounts to the following:

1. A violation of Article 4, Section 4 of the United States Constitution because it is a “commercial invasion” of the states.

*“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) ]

2. “Purposeful availment” that waives sovereign immunity of the United States under the Foreign Sovereign Immunities Act, 28 U.S.C. Chapter 97/
3. A “protection racket” in which taxes essentially amount to a bribe to be left alone. The right to be left alone is FREE and cannot be charged for. It is a gift of the United States Constitution. See 18 U.S.C. Chapter 95.
4. Interference with commerce with threats of violence in violation of 18 U.S.C. §1951. The threats are IRS collection notices delivered to those who are NOT statutory “taxpayers”. The violence is the threat to life, liberty, and property and even family relationships caused by liens and levies against PRIVATE property beyond federal jurisdiction.
5. Money laundering in violation of 18 U.S.C. §1956. Illegal collections extracted from legislatively foreign states is interstate money laundering.

Next, we will consider the five methods by which otherwise PRIVATE humans beyond government jurisdiction ILLEGALLY impersonate statutory “taxpayer” public offices, federal agents, “employees”, or contractors of the federal government. These methods create prima facie FALSE and FRAUDULENT evidence that the party is lawfully engaged in a public office within the national government:

1. SSA Form SS-5: This is the form used to sign up for Social Security and obtain a Social Security Number. This form creates a Social Security Trust and makes you LOOK like a Trustee and agent for the trust. The trust is an “employee” of the federal government and therefore you as its agent are also an “employee”. See the following document for exhaustive evidence proving the legal existence of the trust and which describes how to resign from the trust as “Trustee”:  
<http://famguardian.org/TaxFreedom/Forms/Emancipation/SSTrustIndenture.pdf>
2. IRS Form W-4: This form identifies the submitter in the upper left corner as an “employee”. Only federal “employees” can sign or submit this form. Those who sign do so under penalty of perjury. The perjury statement makes the form into court admissible evidence that you are a federal “employee”. The proper withholding form for

most Americans born within and living within states of the Union is the IRS Form W-8BEN, as described in the article below:

About IRS Form W-8BEN, Form #04.202

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

3. **IRS Form 1040:** This form is actually a profit and loss statement for the Social Security Business trust. The real “taxpayer” is the trust, not the man or woman who is acting as its “Trustee” using his/her license called the “Social Security Number”. All deductions or reductions in liability taken on this statement amount to “employment compensation” for an “employee” of the business trust. These reductions in liability come from:
  - 3.1. I.R.C. §1, which applies a graduated, reduced rate of tax to the proceeds, whereas 26 U.S.C. §871 applies a flat 30%, which is usually higher than the rate most people pay.
  - 3.2. I.R.C. §32, which is earned income credit for the poor.
  - 3.3. I.R.C. §162, which allows “deductions” to the tax liability such as mortgage interest, state income taxes, etc.Those who do not wish to act as Social Security Trustees cannot file the 1040 form. If they file anything, they instead must file the IRS Form 1040NR. For details on how to file this form, see the free link below:  
<http://famguardian.org/TaxFreedom/Instructions/4.12RequestRefunds.htm>
4. **Use of an SSN on any government or financial institution form.** Use of the number on any government application, and especially one for any kind of benefit or service, constitutes prima facie evidence that you consent to be treated as a Trustee for the Social Security Trust and a “taxpayer”. You can’t use the number and there are legitimate ways to not use it in nearly every case, if you investigate this matter further. For further information, see:
  - 4.1. Why You are Not Eligible for Social Security, Form #06.001: Shows you how to get a driver’s license without an SSN. See:  
<http://sedm.org/Forms/FormIndex.htm>
  - 4.2. About SSNs and TINs on Government Forms and Correspondence, Form #05.012: Explains why you can’t use SSN’s on government forms and how to avoid using them. See:  
<http://sedm.org/Forms/FormIndex.htm>
  - 4.3. About IRS Form W-8BEN, Form #04.202. Explains how to stop withholding and open financial accounts without using a social security number. See:  
<http://sedm.org/Forms/FormIndex.htm>
5. **Information Returns such as the W-2, 1042, 1098, 1099 or Treasury Form 8300 (CTR):**
  - 5.1. W-2’s can only be filed on those who have a W-4 in place. If you never filed a W-4, then you can’t earn any “wages” or “compensation” and therefore there is nothing to report. See:

Federal Tax Withholding, Form #04.102

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

The following regulation also shows why those who are not connected to a “public office” (federal employment”), cannot earn any reportable “wages” on a W-2:

*Title 26: Internal Revenue*

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Subpart E—Collection of Income Tax at Source

§ 31.3401(a)(11)-1 Remuneration other than in cash for service not in the course of employer's trade or business.

*(a) Remuneration paid in any medium other than cash for services not in the course of the employer's trade or business is excepted from wages and hence is not subject to withholding. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any medium other than cash, such as lodging, food, or other goods or commodities, for services not in the course of the employer's trade or business does not constitute wages. Remuneration paid in any medium other than cash for other types of services does not come within this exception from wages. For provisions relating to cash remuneration for service not in the course of employer's trade or business, see §31.3401(a)(4)-1.*

- 5.2. 1099’s can only be filled out for those engaged in a “trade or business”, which is defined in 26 U.S.C. §7701(a)(26) as “the functions of a public office” in the U.S. government. Those not employed or contracting with the federal government as such officers cannot earn income “effectively connected with a trade or business”. Therefore, they are “nontaxpayers”. See section 10 of the following memorandum:

The “Trade or Business” Scam, Form #05.001

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

The following quote from the back of the IRS Form 1099-MISC reveals why it is only for use in federal “employment”, which is called a “trade or business”:



2 *"Trade or business reporting only. Report on Form 1099-MISC only when payments are made in the course of*  
3 *your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you*  
4 *operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or*  
5 *business and are subject to these reporting requirements. Nonprofit organizations subject to these reporting*  
6 *requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations*  
7 *exempt from tax under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section*  
8 *521. Payments by federal, state, or local government agencies are also reportable."*

9 5.3. Treasury Form 8300, also called a Currency Transaction Report, may only be filed against those connected with a  
10 "trade or business". The form is completed, usually wrongfully, by banks and financial institutions when  
11 amounts of \$10,000 or more in cash are paid to any person.

12 [31 C.F.R. §103.30\(d\)\(2\) General](#)

13 (2) Receipt of currency not in the course of the recipient's trade or business.

14 *The receipt of currency in excess of \$10,000 by a person other than in the course of the person's trade or*  
15 *business is not reportable under 31 U.S.C. 5331.*

16 Those who never submit any of the above forms or have them submitted against them involuntarily should never have  
17 given the IRS a reason to institute collections against them. Those who have the forms submitted involuntarily must  
18 promptly correct the erroneous reports of "gross income" in order to prevent unlawful collection actions directed against  
19 them as "public officers" and federal "employees". The articles below describe how to correct such erroneous reports that  
20 wrongfully implicate federal "employment" on your part:

- 21 1. *The "Trade or Business" Scam*, Form #05.001:  
22 <http://sedm.org/Forms/FormIndex.htm>  
23 2. *Correcting Erroneous IRS Form W-2's*, Form #04.006:  
24 <http://sedm.org/Forms/FormIndex.htm>  
25 3. *Correcting Erroneous IRS Form 1042's*, Form #04.003:  
26 <http://sedm.org/Forms/FormIndex.htm>  
27 4. *Correcting Erroneous IRS Form 1098's*, Form #04.004:  
28 <http://sedm.org/Forms/FormIndex.htm>  
29 5. *Correcting Erroneous IRS Form 1099's*, Form #04.005:  
30 <http://sedm.org/Forms/FormIndex.htm>  
31 6. *Demand for Verified Evidence of "Trade or Business" Activity: Currency Transaction Report*, Form #04.008  
32 <http://sedm.org/Forms/FormIndex.htm>

33 If you would like more detailed treatment of this subject, you may also wish to read:

34 <i>Who are "taxpayers" and Who Needs a "Taxpayer Identification Number"?</i> , Form #05.013 35 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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## 34 **12 Rebutted Objections to the Content of this Document**

### 35 **12.1 "includes" argument**

36 The most frequent objection to the content of this document relates to the employment of the word "includes" within the  
37 Internal Revenue Code. Proponents of this objection often state arguments like the following:

38 *"Your interpretation of the term 'United States' as defined in 26 U.S.C. §7701(a)(9) is incorrect. The definition*  
39 *uses the word 'includes'. 26 U.S.C. §7701(c ) identifies the word 'includes' as a term of enlargement and not*  
40 *limitation. This means that it is being used as the equivalent of 'in addition to'. The thing that it is adding to is*  
41 *the commonly understood meaning of the term, which interprets its meaning as including the 50 states of the*  
42 *Union."*

43 The definition of "includes" they are referring to in the above is the following:

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

4 What the above devious approach is trying to do is to abuse the rules of statutory construction in order to encourage or  
5 promote false presumption about the jurisdiction of the Internal Revenue Code. They are trying to hoodwink you into  
6 believing that the IRS has more jurisdiction than they actually have. The rules of statutory construction state that the  
7 purpose for defining a term in a law is to supersede, not enlarge, the common definition of the term. The purpose of law is  
8 to eliminate, not introduce, uncertainty, confusion, or presumption about what is required. If it adds to confusion or  
9 presumption, the due process is violated. Such a malicious approach is also the equivalent of "false commercial speech"  
10 which can and should be subject to injunction by the federal courts, but seldom is. In effect, whoever makes this false  
11 claim is trying to imply that [I.R.C. §7701\(c\)](#) gives them carte blanche authority to include whatever they subjectively want  
12 to add into the definition of the term being controverted. This approach obviously does the following:

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

16 ***"When we consider the nature and the theory of our institutions of government, the principles on which they***  
17 ***are supposed to rest, and review the history of their development, we are constrained to conclude that they do***  
18 ***not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is,***  
19 ***of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers***  
20 ***are delegated to the agencies of government, sovereignty itself remains with the***  
21 ***people, by whom and for whom all government exists and***  
22 ***acts. And the law is the definition and limitation of power.*** It is,  
23 indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of  
24 final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying  
25 except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means  
26 of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual  
27 possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious  
28 progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so  
29 that, in the famous language of the Massachusetts bill of rights, the government of the commonwealth 'may be a  
30 government of laws and not of men.' ***For the very idea that one man may be compelled to hold his life, or the***  
31 ***means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to***  
32 ***be intolerable in any country where freedom prevails, as being the essence of slavery itself."***  
33 *[Yick Wo v. Hopkins, [118 U.S. 356](#) (1886)]*

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

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

- 41 7. Compels "presumption" and therefore violates due process of law. See:

42 <i><b><u>Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction</u></b></i> , Form #05.017 <a href="http://sedm.org/Forms/FormIndex.htm">http://sedm.org/Forms/FormIndex.htm</a>
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- 43 8. Violates due process of law and thereby injures the Constitutional rights of the interested party.

44 Black's Law Dictionary provides two possible definitions for the word "includes". It can be used as a term of limitation or  
enlargement:

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

enlargement or of illustrative application as well as a word of limitation. *Premier Products Co. v. Cameron*,  
240 Or. 123, 400 P.2d. 227, 228.”  
[*Black’s Law Dictionary*, Sixth Edition, p. 1185 (1990)]

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

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

*Chapter 1 Definitions*  
*Section 1: Definition of “fruit”*

*For the purposes of this chapter, the term “fruit” **shall include** apples, oranges and bananas.*

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

*Chapter 2 Definitions*  
*Section 10 Definition of “fruit”*

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

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

*“In definitive provisions of statutes and other writings, ‘include’ is frequently, if not generally, used as a word of extension or enlargement [meaning “in addition to”] rather than as one of limitation or enumeration. *Fraser v. Bentel*, 161 Cal. 390, 394, 119 P. 509, Ann. Cas. 1913B, 1062; *People ex rel. Estate of Woolworth v. S.T. Comm.*, 200 App.Div. 287, 289, 192 N.Y.S. 772; *Matter of Goetz*, 71 App.Div. 272, 275, 75 N.Y.S. 750; *Calhoun v. Memphis & P.R. Co.*, Fed. Cas. No. 2,309; *Cooper v. Stinson*, 5 Minn. 522 (Gil. 416). Subject to the effect properly to be given to context, Section 1 (11 USCA 1) prescribes the constructions to be put upon various words and phrases used in the act. Some of the definitive clauses commence with ‘shall include,’ others with ‘shall mean.’ The former is used in eighteen instances and the latter in nine instances, and in two both are used. When the section as a whole is regarded, it is evident that these verbs are not used synonymously or loosely, but with discrimination and a purpose to give to each a meaning not attributable to the other. It is obvious that, in some instances at least, ‘shall include’ is used without implication that any exclusion is intended. Subsections (6) and (7), in each of which both verbs are employed, illustrate the use of ‘shall mean’ to enumerate and restrict and of ‘shall include’ to enlarge and extend. Subsection (17) declares ‘oath’ shall include affirmation, Subsection (19) declares ‘persons’ shall include corporations, officers, partnerships, and women. Men are not mentioned. In these instances the verb is used to expand, not to restrict. It is plain that ‘shall include,’ as used in subsection (9) when taken in connection with other parts of the section, cannot reasonably be read to be the equivalent of ‘shall mean’ or ‘shall include only.’ [287 U.S. 513, 518] There being nothing to indicate any other purpose, Congress must be deemed to have intended that in section 3a(1) ‘creditors’ should be given the meaning usually attributed to it when used in the common-law definition of fraudulent conveyances. See *Coder v. Arts*, [213 U.S. 223, 242](#), 29 S.Ct. 436, 16 Ann.Cas. 1008; *Lansing Boiler**

& Engine Works v. Joseph T. Ryerson & Son (C.C.A.) 128 F. 701, 703; *Githens v. Shiffler* (D.C.) 112 F. 505. Under the common-law rule a creditor having only a contingent claim, such as was that of the petitioner at the time respondent made the transfer in question, is protected against fraudulent conveyance. And petitioner, from the time that it became surety on Mogliani's bond, was entitled as a creditor under the agreement to invoke that rule. *Yeend v. Weeks*, 104 Ala. 331, 341, 16 So. 165, 53 Am.St.Rep. 50; *Whitehouse v. Bolster*, 95 Me. 458, 50 A. 240; *Mowry v. Reed*, 187 Mass. 174, 177, 72 N.E. 936; *Stone v. Myers*, 9 Minn. 303 (Gil. 287, 294), 86 Am.Dec. 104; *Cook v. Johnson*, 12 N.J.Eq. 51, 72 Am.Dec. 381; *American Surety Co. v. Hattrem*, 138 Or. 358, 364, 3 P.(2d) 1109, 6 P.(2d) 1087; *U.S. Fidelity & Guaranty Co. v. Centropolis Bank* (C.C.A.) 17 F.(2d) 913, 916, 53 A.L.R. 295; *Thomson v. Crane* (C.C.) 73 F. 327, 331." [American Surety Co. of New York v. Marotta, [287 U.S. 513](#) (1933)]

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

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

For those of you interested in further exhaustive analysis of why the word "includes" is used as a term of limitation rather than enlargement within the Internal Revenue Code, please consult the free pamphlet entitled "Meaning of the Words 'includes' and 'including'" available on the internet at:

[Legal Deception, Propaganda, and Fraud](#), Form #05.014  
<http://sedm.org/Forms/FormIndex.htm>

## 12.2 "trade or business" defined in 26 U.S.C. §7701(a)(26) includes ALL government functionaries, not just "public officers"

### Contention:

The term "trade or business" found in 26 U.S.C. §7701(a)(26) includes "the functions of a public office":

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

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

(26) Trade or business

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

As you mentioned in the previous section, the definition uses the term "includes" and thus permits "trade or business" to include all similar things such as all government workers, rather than ONLY lawfully elected or appointed public officers.

### Rebuttal:

WRONG!

1. The U.S. Supreme Court said that the purpose of statutory definitions is to SUPERSEDE rather than enlarge the ordinary meaning of words.

*"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)]

2. The statutory definition of "trade or business" is NOT a definition if it does not include ALL "essential elements":

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

3. The rules of statutory construction say the definition of "trade or business" excludes all things not expressly stated:

**"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]

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

4. The Internal Revenue Code is NOT law if it doesn't DEFINE and therefore LIMIT the power mainly of the  
government.

**"When we consider the nature and theory of our institutions of government, the principles upon which they are  
supposed to rest, and review the history of their development, we are constrained to conclude that they do not  
mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of  
course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are  
delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all  
government exists and acts. And the law is the definition and limitation of power."**  
[Downes v. Bidwell, 182 U.S. 244 (1901) ]

Furthermore, those who advance this flawed claim are asked to answer how it is that "the functions of a public office" can  
lawfully be exercised by OTHER than a public office? Hello! In fact, it is a CRIME:

1. To exercise "the functions of a public office" without in FACT and in DEED BEING a lawfully appointed or elected  
public officer. See 18 U.S.C. §912:

18 U.S.C. § 912 - Officer or employee of the United States

Whoever falsely assumes or pretends to be an officer or employee acting under the  
authority of the United States or any department, agency or officer thereof, and acts  
as such, or in such pretended character demands or obtains any money, paper,  
document, or thing of value, shall be fined under this title or imprisoned not more  
than three years, or both.

2. To elect or appoint yourself into a public office by filling out any government form. This include the SS-5 and W-4  
forms, which are reserved only for federal statutory "employees" (5 U.S.C. §2105) and not EXCLUSIVELY  
PRIVATE people. See 18 U.S.C. §211.  
3. To bribe others with withheld tax monies to treat you AS IF you are a "public officer" if you were not a lawfully



appointed or elected public officer BEFORE you became a statutory “taxpayer”. See 18 U.S.C. §210.

As we have repeatedly said, the Internal Revenue Code, Subtitles A and C is a franchise and an excise upon privileged public offices within the national and not federal government. Since those offices are occupied throughout the country, then the tax is not limited only to the District of Columbia. The only way they can tax or regulate something is for it to FIRST be injurious and usually illegal. The first step in regulating the activity is to make committing it injuriously ILLEGAL or CRIMINAL. This, in fact, is what 18 U.S.C. §911 does. They had to make injurious use of federal offices illegal before they could tax it, and that is EXACTLY what they did. Any service of government you consume can be injurious if you don’t pay for what you consume, The SSN is designed as a de facto license to ensure you pay for the government services you demand or consume.

### 12.3 Court objections

The following subsections document specific court rulings which on first appearance would seem to rebut the content of this pamphlet but in fact do not. The reasons they do not are documented in each section.

#### 12.3.1 U.S. v. Latham, 754 F.2d. 747, 750 (7th Cir. 1985)

##### Contention:

*"Similarly, Latham's instruction which indicated that under 26 U.S.C. §3401(c) the category of 'employee' does not include privately employed wage earners is a preposterous reading of the statute. It is obvious that within the context of both statutes the word 'includes' is a term of enlargement not of limitation, and the reference to certain entities or categories is not intended to exclude all others."*  
[United States v. Latham, 754 F.2d. 747, 750 (7th Cir. 1985)]

##### Rebuttal:

The court used the word “includes” argument as described in section 12.1 earlier. Refer to that section and SEDM Form #05.014 at the end of that section for a detailed rebuttal of that argument.

The definition of “employee” found in 26 U.S.C. §3401(c) is all inclusive, unless the government finds another statute that adds to it. Since it didn’t find any place in the I.R.C. that expressly added what they wanted to add, such as private employees, the rules of statutory construction forbid adding anything to the definition beyond that shown:

*"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)]

In addition, the court is using verbiage to confuse by combining the word “wages” with the word “private”. Anyone who earns “wages” as legally defined in 26 U.S.C. §3401(a) can only be a public officer in the U.S. government whose earnings are connected to a public office when reported on IRS Form W-2 pursuant to 26 U.S.C. §6041. As such, the court is unlawfully presuming that when one voluntarily signs a W-4, then they elect to become a “public officer” in the government and at that point, no longer can be described as “privately employed”. Those who sign IRS Form W-4 are

1 publicly employed “Kelly Girls” working under contract, and the contract is the W-4, as confirmed by 26 C.F.R.  
2 §31.3401(a)-3(a) and 26 C.F.R. §31.3402(p)-1.

3 The court is mistaken, however, in the presumption that any IRS form or provision within the I.R.C., including an IRS  
4 Form W-4, can or does allow a private person to “elect” themselves into such a public office in the government. The only  
5 way the court could be coherent in their holding above is to make this false and prejudicial presumption.

6 By engaging in such self-serving and prejudicial presumptions, the judge is doing the following:

- 7 1. Committing the crime of causing the litigant to impersonate a public officer in the government in violation of 18  
8 U.S.C. §912.
- 9 2. Violating due process. Any presumption that prejudices constitutional rights is a violation of due process:

10 (1) [8:4993] **Conclusive presumptions affecting protected interests:**

11 *A conclusive presumption may be defeated where its application would impair a party's constitutionally-*  
12 *protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a*  
13 *party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230,*  
14 *2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 U.S. 632, 639-640, 94 S.Ct. 1208, 1215-presumption under*  
15 *Illinois law that unmarried fathers are unfit violates process]*  
16 [[Federal Civil Trials and Evidence, Rutter Group, 2006, paragraph 8:4993, p. 8K-34](#)]

- 17 3. Violating the separation of powers by legislating things into the definition that are not there.
- 18 4. Exercising eminent domain over the private labor of a human being in violation of the Fifth Amendment takings clause  
19 because it is not accompanied by just compensation. In short, he is using presumptions to steal from people he is  
20 supposed to be protecting.
- 21 5. Engaging in involuntary servitude to the consequences of his presumptions in violation of the Thirteenth Amendment.

22 If you want to prevent the above abuses of verbicide to enslave and oppress people, we recommend attaching the following  
23 tools to your pleadings in all tax litigation before a federal court:

- 24 1. [Federal Pleading/Motion/Petition Attachment](#), Litigation Tool #01.002  
25 <http://sedm.org/Litigation/LitIndex.htm>
- 26 2. [Rules of Presumption and Statutory Interpretation](#), Litigation Tool #10.003  
27 <http://sedm.org/Litigation/LitIndex.htm>

### 28 **12.3.2 Sullivan v. United States, 788 F.2d. 813, 815 (1st Cir. 1986)**

#### 29 **Contention:**

30 *"To the extent Sullivan argues that he received no 'wages' in 1983 because he was not an 'employee' within the*  
31 *meaning of 26 U.S.C. §3401(c), that contention is meritless. Section 3401(c), which relates to income tax*  
32 *withholding, indicates that the definition of 'employee' includes government officers and employees, elected*  
33 *officials, and corporate officers. The statute does not purport to limit withholding to the persons listed therein."*  
34 [*Sullivan v. United States, 788 F.2d. 813, 815 (1st Cir. 1986)*]

#### 35 **Rebuttal:**

36 In the above case, Grant Sullivan filed a written request for refund and submitted with the request IRS Form W-2's that  
37 were filed against him which he never conclusively rebutted. Consequently, he earned “wages” as legally defined in [26](#)  
38 [U.S.C. §3401](#)(a), 26 C.F.R. §31.3401(a)-3(a). In his request for refund, Sullivan wrote the word “INCORRECT” across the  
39 W-2's submitted against him and which he included with his request for refund, and explained that he is an “unenfranchised  
40 free man”. Here is what he should have done:

- 41 1. Explain that the only way that W-2 forms can lawfully be filed against him if he is engaged in a “trade or business” and  
42 a “public office” pursuant to [26 U.S.C. §6041](#).
- 43 2. Explain that he never submitted an IRS Form W-4 and therefore could earn no income reportable on an information  
44 return such as an IRS Form W-2 pursuant to 26 C.F.R. §31.3402(p)-1.
- 45 3. Not include the original W-2's, but rather a “Substitute Form 4852” correcting the falsely reported amounts. See:

Sullivan was close in his argument, but he couldn't identify the franchise, which is a "trade or business" and a "public office", that is the subject of the excise tax described in Internal Revenue Code, Subtitle A. Instead, he simply indicated that he was an "unenfranchised free man".

Since Sullivan never properly rebutted the information return that connected him to the "trade or business" franchise, then this argument was meritless as the court correctly pointed out. He was a "franchised" person but he didn't know why and he didn't know how to disassociate with or disconnect with the franchise with appropriate arguments. Consequently, Sullivan:

1. Was unwittingly engaged in a "public office" in the U.S. government pursuant to [26 U.S.C. §6041\(a\)](#) and [26 U.S.C. §7701\(a\)\(26\)](#), whether he knew it or not.
2. Was functioning essentially as a "Kelly Girl" representing the U.S. government and rented out to his private employer, all of which constituted revenue to the United States government and not him personally.
3. Had voluntarily submitted an IRS Form W-4 and thereby became an "employee" within the meaning of the I.R.C. who earned "wages" as legally defined in [26 U.S.C. §3401\(a\)](#). The only thing that is includible in "wages" is earnings connected to the "trade or business" franchise:

[26 C.F.R. §31.3401\(a\)-3 Amounts deemed wages under voluntary withholding agreements](#)

(a) In general. **Notwithstanding the exceptions to the definition of wages specified in section 3401(a) and the regulations thereunder, the term "wages" includes the amounts described in paragraph (b)(1) of this section with respect to which there is a voluntary withholding agreement in effect under section 3402(p).** References in this chapter to the definition of wages contained in section 3401(a) shall be deemed to refer also to this section (§31.3401(a)-3).

4. Had to include ALL of his compensation as "gross income" pursuant to 26 C.F.R. §31.3401(p)-1(b) and could deduct none of it at its cost if he signed an IRS Form W-4 voluntarily. Sullivan tried to deduct the cost of producing his labor from the amount on the W-2, resulting in no reportable "taxable income", but he couldn't do this if he submitted a W-4 to his private employer.

[26 C.F.R. §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 §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. See §31.3405(c)-1, Q&A-3 concerning agreements to have more than 20-percent Federal income tax withheld from eligible rollover distributions within the meaning of section 402.

The court's quote (under "Contention" above) is a violation of due process of law because of the following:

1. It does not specify where in the statutes that persons other than "government officers and employees, elected officials, and corporate officers" are included, and therefore fails to give "reasonable notice" or a definition of exactly who is "included". Consequently, the statute is "void for vagueness". See:

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

2. The ruling constitutes a "presumption" about the meaning of a word that is not based on any presented evidence. A "presumption" is not evidence. All presumptions which prejudice constitutionally guaranteed rights are unconstitutional. See:

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

3. It leaves the determination of the meaning of words entirely up to the arbitrary whim of a man (a judge) instead of the law, which means it creates a “society of men”. This is in violation of the Constitution, which the U.S. Supreme Court said creates a “society of law and not men”.

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

On the above subject, the U.S. Supreme Court has said:

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

### **12.3.3 Bernier v. IRS, KTC 1999-540, No. CV 98-0331-N-EJL (U.S.D.C. Idaho 1999)**

#### **Contention:**

*“Plaintiff Paul Bernier alleges that in his occupation as a truck driver he is not employed by the federal government and is therefore not an employee as defined in 26 C.F.R. §31.3401(c) ( see Motion to Dismiss/Summary Judgment, Docket No. 5). Plaintiff claims that since he is not an “employee,” he is exempt from income taxes because he does not earn “wages.” The regulation provides:*

*The term “employee” includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one of more of the foregoing.*

26 C.F.R. § 31.3401(c)-1(a).

*Plaintiff's allegation is without legal merit as he attempts to limit “employees” to employees of the federal government. However, the term employee refers to every individual who performs services at the direction or control of another. See 26 C.F.R. § 31.3306(1)-1(b). Thus, even individuals that are not employees of the federal government are still construed as employees within the regulation if they fit within the definition pursuant to 26 C.F.R. § 31.3401(c).*

*At the hearing on June 15, 1999, Plaintiff Paul Bernier stated that he worked for C.R. England and Sons during the years of 1995 and 1996 and that he received compensation for work done at the direction of his employer. Based on the record before the Court, and Plaintiff's admission at the hearing, it is clear that Plaintiff fits within the definition of “employee” and is therefore subject to taxation.*  
[Bernier v. IRS, KTC 1999-540, No. CV 98-0331-N-EJL (U.S.D.C. Idaho 1999)]

#### **Rebuttal:**

*“[J]udicial verbicide is calculated to convert the Constitution into a worthless scrap of paper and to replace our government of laws with a judicial oligarchy.”*  
[Senator Sam Ervin, of Watergate hearing fame]

First of all, the above ruling was by a magistrate judge, not an Article III judge. Therefore, it does not constitute an authoritative precedent.

The court is engaging in what we call “judicial verbicide” in the above ruling.

1. The court unlawfully “legislated from the bench” by imputing a meaning to a word that is nowhere found in the statutes or regulations themselves. In that sense, they have violated the separation of powers doctrine, which reserves

the power to write law exclusively to the Legislative Branch. Consequently, the statute being enforced, being [26 U.S.C. §3401](#)(c), is void for vagueness because it fails to give “reasonable notice” of the conduct that is expected and unlawfully compels “presumption” and a state sponsored religion surrounding what it expects.

2. The court unlawfully violated due process of law by not identifying where in the statutes or regulations the thing or class of things they were identified were specifically “included”.
3. The court unlawfully engaged in prejudicial presumption unsupported by any evidence and thereby injured the rights of the litigant. Presumptions which injure constitutional rights are impermissible.

(1) [8:4993] **Conclusive presumptions affecting protected interests:**

A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) [412 U.S. 441](#), 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) [414 U.S. 632](#), 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]  
[[Federal Civil Trials and Evidence, Rutter Group, 2006, paragraph 8:4993, p. 8K-34](#)]

- 3.1. They presumed a meaning of a word that is not in the statute.
- 3.2. They admitted into evidence and mentioned in a ruling a statute that is simply a presumption. [1 U.S.C. §204](#) says that everything in Title 26 is “prima facie evidence” which means a “presumption”.

**“Prima facie evidence.** Evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue which it supports, but which may be contradicted by other evidence. State v. Haremsa, 213 Kan. 201, 515 P.2d. 1217, 1222.

That quantum of evidence that suffices for proof of a particular fact until the fact is contradicted by other evidence; once a trier of fact is faced with conflicting evidence, it must weigh the prima facie evidence with all the other probative evidence presented. Godesky v. Provo City Corp., Utah, 690 P.2d. 541, 547. Evidence which, standing alone and unexplained, would maintain the proposition and warrant the conclusion to support which it is introduced. An inference or presumption of law, affirmative or negative of a fact, in the absence of proof, or until proof can be obtained or produced to overcome the inference. See also Presumptive evidence.”  
[Black's Law Dictionary, Sixth Edition, p. 1190]

“A presumption is not evidence. A presumption is either conclusive or rebuttable. Every rebuttable presumption is either (a) a presumption affecting the burden of producing evidence or (b) a presumption affecting the burden of proof. Calif.Evid.Code, §600.”  
[Black's Law Dictionary, Sixth Edition, p. 1185]

4. The court made an unlawful Declaratory Judgment about the meaning of the word “employee”, which [28 U.S.C. §2201](#)(a) says they cannot lawfully do in the context of “taxes”.
5. The court deprived the litigant of equal protection of the law by refusing him the EQUAL right to presume that he was NOT included. Consequently, they have created an unconstitutional “Title of Nobility”, whereby only judges are among the privileged class of persons who can lawfully make such “presumptions”.
6. The effect of their prejudicial presumption personally and financially benefited them, because all judges are “taxpayers” and their pay and benefits directly derive from the tax that was at issue, resulting in a conflict of interest in violation of [28 U.S.C. §144](#), [28 U.S.C. §455](#), and [18 U.S.C. §208](#).
7. The court did not point out that the term “individual” can only include “public officers” and not private individuals.

“the term employee refers to every individual who performs services at the direction or control of another. See 26 C.F.R. § 31.3306(I)-1(b)”

The ability to regulate private conduct is “repugnant to the constitution”, and therefore the government can only regulate the activities of its own employees and officers.

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



2 In fact, the term “individual” is likely deliberately nowhere defined in the I.R.C. and the definition found at [5 U.S.C.](#)  
3 [§552a](#)(a)(2) identifies all “individuals” as federal employees and officers.

4 **12.3.4 Pabon v. Commissioner, T.C. Memo 1994-476**

5 **Contention:**

6 *In Pabon v. Commissioner, T.C. Memo 1994-476, the petitioner alleged, among other things, that he "is not an*  
7 *employee of the Federal or state governments, is not engaged in a revenue taxable activity of alcohol, tobacco*  
8 *or firearms and therefore not subject to any exise [sic] tax...." The court concluded that the petition "is nothing*  
9 *but tax protester rhetoric and legalistic gibberish...."*

10 **Rebuttal:**

11 The tax court is not in the judicial branch, but is an Article I administrative agency in the Legislative branch of the  
12 government. Even the IRS refuses to impute any authority to a Tax Court ruling beyond the individual who litigated the  
13 case. See Internal Revenue Manual (I.R.M.), Section 4.10.7.2.9.8:

14 *Internal Revenue Manual*  
15 *4.10.7.2.9.8 (01-01-2006)*  
16 *Importance of Court Decisions*

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

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

23 *3. Decisions made by lower courts, such as Tax Court, District Courts, or Claims Court, are binding on the*  
24 *Service only for the particular taxpayer and the years litigated. Adverse decisions of lower courts do not*  
25 *require the Service to alter its position for other taxpayers.*  
26 *[SOURCE: <http://www.irs.gov/irm/part4/ch10s11.html>]*

27 If the IRS isn’t bound by decisions below the U.S. Supreme Court, then neither can the average American be expected to  
28 change or alter their position. This is a requirement of the equal protection of the laws that is the foundation of the United  
29 States Constitution

30 **12.4 Argument is “frivolous”**

31 **ARGUMENT:**

32 The argument is “frivolous”.

33 **REBUTTAL:**

34 Stating that our arguments are “frivolous” without justifying such a determination with:

- 35 1. Legally admissible evidence signed under penalty of perjury or verified with an oath (as required by 26 U.S.C. §6065).  
36 2. Deriving the evidence ONLY from the civil domicile of the accused party as required by Federal Rule of Civil  
37 Procedure 17(b). This means state law and NOT federal law.

38 . . . amounts to little more than accusing us of being “heretics” because we refuse to participate in the state-sponsored civil  
39 religion being run out of churches called “courts”. Similar arguments apply to any other pejorative adjective label the  
40 courts might attempt to use that do not deal directly and completely with ALL the facts and arguments made herein on any  
41 given subject, such as:

1. “Ridiculous”.
2. “Preposterous”.
3. “Soundly rejected”.
4. “Malicious”.
5. “Irresponsible”.
6. “Makes him/her a leech because he/she refuses to pay their ‘fair share’”.
7. “Manifestly erroneous”.

All such adjectives do is prove that the judge is not acting in a judicial capacity as a neutral finder of facts and who reveals only facts, but who rather doing is the following:

1. Acting in a political rather than judicial capacity as a member of the Executive rather than Judicial branch. Article 1, Section 8, Clauses 1 and 3 of the United States Constitution empower Congress and ONLY Congress to lay AND collect taxes. By undermining and interfering with attempts to stop unlawful collection enforcement, the judge is:
  - 1.1. Acting as a tax collector in the Executive Branch. Congress CANNOT lawfully delegate any function, including the tax collection function, to any other branch of the government, including the Judicial Branch.
  - 1.2. Violating the separation of powers doctrine by exercising Executive Branch functions.

*“ . . . a power definitely assigned by the Constitution to one department can neither be surrendered nor delegated by that department, nor vested by statute in another department or agency. Compare Springer v. Philippine Islands, 277 U.S. 189, 201, 202, 48 S.Ct. 480, 72 L.Ed. 845. ”*  
*[Williams v. U.S., 289 U.S. 553, 53 S.Ct. 751 (1933)]*

*“It may be stated then, as a general rule inherent in the American constitutional system, that, unless otherwise expressly provided or incidental to the powers conferred, the Legislature cannot exercise either executive or judicial power; the executive cannot exercise either legislative or [277 U.S. 189, 202] judicial power; the judiciary cannot exercise either executive or legislative power. The existence in the various Constitutions of occasional provisions expressly giving to one of the departments powers which by their nature otherwise would fall within the general scope of the authority of another department emphasizes, rather than casts doubt upon, the generally inviolate character of this basic rule.”*  
*[Springer v. Government of the Philippines, 277 U.S. 189 (1928)]*

- 1.3. Acting as a federal employment recruiter by illegally compelling private parties protected by the Constitution to become “public officers” within the government without compensation and often without their consent or even knowledge.
- 1.4. Engaging in conversion in violation of 18 U.S.C. §654, whereby he is converting private property to a public use, a public purpose, and a public office without the consent of the owner and in violation of the Fifth Amendment takings clause.

*“Men are endowed by their Creator with certain unalienable rights, -life, liberty, and the pursuit of happiness;’ and to ‘secure,’ not grant or create, these rights, governments are instituted. That property [or income] which a man has honestly acquired he retains full control of, subject to these limitations: First, that he shall not use it to his neighbor’s injury, and that does not mean that he must use it for his neighbor’s benefit [e.g. SOCIAL SECURITY, Medicare, and every other public “benefit”]; second, that if he devotes it to a public use, he gives to the public a right to control that use; and third, that whenever the public needs require, the public may take it upon payment of due compensation.”*  
*[Budd v. People of State of New York, 143 U.S. 517 (1892) ]*

The above rules are summarized below:

**Table 11: Rules for converting private property to a public use or a public office**

#	Description	Requires consent of owner to be taken from owner?
1	The owner of property justly acquired enjoys full and exclusive use and control over the property. This right includes <u><b>the right to exclude government uses</b></u> or ownership of said property.	Yes
2	He may not use the property to injure the equal rights of his neighbor. For instance, when you murder someone, the government can take your liberty and labor from you by putting you in jail or your life from you by instituting the death penalty against you. Both your life and your labor are “property”. Therefore, the basis for the “taking” was violation of the equal rights of a fellow sovereign “neighbor”.	No
3	He cannot be compelled or required to use it to “benefit” his neighbor. That means he cannot be compelled to donate the property to any franchise that would “benefit” his neighbor such as Social Security, Medicare, etc.	Yes
4	If he donates it to a public use, he gives the public the right to control that use.	Yes
5	Whenever the public needs require, the public may take it without his consent upon payment of due compensation. E.g. “ <u>eminent domain</u> ”.	No

2. Entertaining “political questions” in violation of the separation of powers doctrine.
3. Abusing legal process to terrorize, discredit, and enslave the litigant in violation of 18 U.S.C. §1589(3).

[TITLE 18 > PART 1 > CHAPTER 77 > § 1589](#)  
[§ 1589. Forced labor](#)

**Whoever knowingly provides or obtains the labor or [litigation] services of a person—**

*(1) by threats of serious harm to, or physical restraint against, that person or another person;*

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

**(3) by means of the abuse or threatened abuse of law or the legal process [against an innocent “nontaxpayer”].**

**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.*

4. Obstructing justice due to people under the court’s care and protection.
5. Not dealing directly with the issues at hand because doing so would jeopardize the CRIMINAL flow of plunder into his checking account.

To this we like to respond by thanking those engaging in such tactics for telling us that our arguments are truthful, accurate, and consistent with prevailing law and that we are right.

- The courts have consistently held that you can’t rely on anything the IRS says. See: <http://famguardian.org/Subjects/Taxes/Articles/IRSNotResponsible.htm>
- The IRS website says you can’t rely on anything they print, including any publication or form. See Internal Revenue Manual (I.R.M.), Section 4.10.7.2.8:

*“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.”*

- The entire Internal Revenue Code is identified in 1 U.S.C. §204 as nothing more than simply a statutory “presumption”. “Prima facie evidence” means presumption. [Presumptions](#) are NOT evidence, nor may they lawfully be used as a SUBSTITUTE for evidence in a court of law:

(1) [8:4993] **Conclusive presumptions affecting protected interests:**

*A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) 412 U.S. 441, 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) 414 US 632, 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates process]*  
[\[Federal Civil Trials and Evidence, Rutter Group, 2006, paragraph 8:4993, p. 8K-34\]](#)

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

*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]*

- The Internal Revenue Code at 26 U.S.C. §6065 requires everything prepared under the authority of the code to be signed under penalty of perjury. Nothing coming from the IRS ever is, and therefore it is UNTRUSTWORTHY.
- The Bible forbids Christians to presume anything and by implication, to treat presumptions as a basis for any kind of belief or inference.

*“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.”*  
[\[Numbers 15:30, Bible, NKJV\]](#)

For more information on what DOES constitute a reasonable belief about one’s tax liabilities, see:

[Reasonable Belief About Income Tax Liability](#), Form #05.007  
<http://sedm.org/Forms/FormIndex.htm>

Even if the government tried to define what the word “frivolous” means, we aren’t allowed by their own statements and publications to trust their definition. Consequently, we are compelled to provide a definition for every word we hear from the government in order to avoid the Christian sin of presumption, and our definition is that the word “frivolous” means truthful, accurate, and consistent with prevailing law. Our definition is required to appear in all of the following forms of communication with the government as a mandatory part of our Member Agreement, Form #01.001:

1. All pleadings filed in federal court. See Section  
[Federal Pleading/Motion/Petition Attachment](#), Litigation Tool #01.002  
<http://sedm.org/Litigation/LitIndex.htm>

2. All discovery in court:  
[Citizenship, Domicile, and Tax Status Options](#), Form #10.003  
<http://sedm.org/Litigation/LitIndex.htm>

3. All tax forms filed with the IRS. See Section 4 of the following:  
[Tax Form Attachment](#), Form #04.201  
<http://sedm.org/Forms/FormIndex.htm>

The very purpose of law is to give reasonable notice to all parties concerned of the conduct expected of them. Simply calling something “frivolous” without defining why it is defective using civil law deriving ONLY from the domicile of the accused party per Federal Rule of Civil Procedure 17(b), does the following:

1. Fails to give reasonable notice of the conduct expected and therefore falls short of the purpose of law and causes a violation of due process of law. See:

*Requirement for Reasonable Notice*, Form #05.022

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

2. Unconstitutionally involves the courts in political matters. The abuse of the word by courts by refusing to identify reasons simply amounts to little more than a political statement and labels the speaker as a “heretic” who refuses to join the state-sponsored religion of socialism described below:

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

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

3. Proves that if a federal court makes this assertion, that it is not a true Article III constitutional court, but a franchise court established under Article 4, Section 3, Clause 2 of the United States Constitution. They are administering the “trade or business” franchise and do not fulfill the main purpose for the establishment of government, which is the protection of private rights. Instead, they have made a lucrative PRIVATE business out of DESTROYING your PRIVATE rights, and protecting and expanding federal property by converting private property into public property by illegally abusing presumption and word games. This is exhaustively proven with thousands of pages of evidence in the following document:

*What Happened to Justice?*, Form #06.012

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

## 12.5 Other Resources for direct rebuttal

The following resources on our website are helpful in rebutting arguments against the conclusions of this pamphlet:

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

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

1.1. Section 7.3: Only Federal Workers are Subject to the Internal Revenue Code

1.2. Section 7.10: Only federal employees or federal officeholders need to complete IRS Form W-4.

2. *Rebutted Version of the IRS Pamphlet: “The Truth About Frivolous Tax Arguments”*, Form #08.005

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

2.1. Section I.C.4: The only “employees” subject to federal income tax are employees of the federal government.

## 13 Conclusions

The Internal Revenue Code represents a constitutional taxing plan for two entirely separate and completely distinct legal and political communities, each with its own citizens, subjects, and unique characteristics: the “national” government and the “federal” government. These two communities are and must continue to remain completely separate as a result of the separation of powers doctrine that is at the heart of the United States Constitution. This separation was put there by the framers of the Constitution for the protection of our liberties and rights:

*“We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U.S. Const., Art. I, § 8. As James Madison wrote, “[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and*

*indefinite.” The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961).* **This constitutionally**

**mandated division of authority “was adopted by the Framers**

**to ensure protection of our fundamental liberties.”** *Gregory v. Ashcroft,*

**501 U.S. 452, 458 (1991) (internal quotation marks omitted). “Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.” Ibid. “**

**[U.S. v. Lopez, 514 U.S. 549 (1995)]**



"The people of the United States, by their Constitution, have affirmed a division of internal governmental powers between the federal government and the governments of the several states-committing to the first its powers by express grant and necessary implication; to the latter, or [301 U.S. 548, 611] to the people, by reservation, 'the powers not delegated to the United States by the Constitution, nor prohibited by it to the States.' The Constitution thus affirms the complete supremacy and independence of the state within the field of its powers. *Carter v. Carter Coal Co.*, 298 U.S. 238, 295, 56 S.Ct. 855, 865. The federal government has no more authority to invade that field than the state has to invade the exclusive field of national governmental powers; for, in the oft-repeated words of this court in *Texas v. White*, 7 Wall. 700, 725, 'the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National government.' The necessity of preserving each from every form of illegitimate intrusion or interference on the part of the other is so imperative as to require this court, when its judicial power is properly invoked, to view with a careful and discriminating eye any legislation challenged as constituting such an intrusion or interference. See *South Carolina v. United States*, 199 U.S. 437, 448, 26 S.Ct. 110, 4 Ann.Cas. 737." [Steward Machine Co. v. Davis, 301 U.S. 548 (1937)]

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

**Where Congress exceeds its authority relative to the States, therefore, the departure from the constitutional plan cannot be ratified by the "consent" of state officials. An analogy to the separation of powers among the branches of the Federal Government clarifies this point. The Constitution's division of power among the three branches is violated where one branch invades the territory of another, whether or not the encroached-upon branch approves the encroachment.** In *Buckley v. Valeo*, 424 U.S. 1, 118-137 (1976), for instance, the Court held that Congress had infringed the President's appointment power, despite the fact that the President himself had manifested his consent to the statute that caused the infringement by signing it into law. See *National League of Cities v. Usery*, 426 U.S., at 842, n. 12. In *INS v. Chadha*, 462 U.S. 919, 944-959 (1983), we held that the legislative veto violated the constitutional requirement that legislation be presented to the President, despite Presidents' approval of hundreds of statutes containing a legislative veto provision. See *id.*, at 944-945. The constitutional authority of Congress cannot be expanded by the "consent" of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States. [New York v. United States, 505 U.S. 144, 112 S.Ct. 2408, 120 L.Ed.2d. 120 (1992)]

States of the Union are "foreign countries" and "foreign states" with respect to federal taxing jurisdiction. This was explained by the U.S. Supreme Court and is also found in Black's Law Dictionary:

"The state governments, in their separate powers and independent sovereignties, in their reserved powers, are just as much beyond the jurisdiction and control of the National Government as the National Government in its sovereignty is beyond the control and jurisdiction of the state government."

**"...a State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation..."** [Mayer, etc. of the City of New York v. Miln., 36 U.S. 102, 11 Pet. 102, 9 L.Ed. 648 (1837)]

**"It is no longer open to question that the general government, unlike the states, *Hammer v. Dagenhart*, 247 U.S. 251, 275, 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.** The question in respect of the inherent power of that government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to consider. See, however, *Jones v. United States*, 137 U.S. 202, 212, 11 S.Ct. 80; *Nishimur Ekiu v. United States*, 142 U.S. 651, 659, 12 S.Ct. 336; *Fong Yue Ting v. United States*, 149 U.S. 698, 705 et seq., 13 S.Ct. 1016; *Burnet v. Brooks*, 288 U.S. 378, 396, 53 S.Ct. 457, 86 A.L.R. 747." [Carter v. Carter Coal Co., 298 U.S. 238 (1936)]

The determination of the Framers Convention and the ratifying conventions to preserve complete and unimpaired state self-government in all matters not committed to the general government is one of the plainest facts which emerge from the history of their deliberations. And adherence to that determination is incumbent

equally upon the federal government and the states. State powers can neither be appropriated, on the one hand, nor abdicated, on the other. As this court said in *Texas v. White*, 7 Wall. 700, 725 --

the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

Every journey to a forbidden end begins with the first step, and the danger of such a step by the federal government in the direction of taking over the powers of the states is that the end of the journey may find the states so despoiled of their powers, or -- what may amount to the same thing -- so [298 U.S. 296] relieved of the responsibilities which possession of the powers necessarily enjoins, as to reduce them to little more than geographical subdivisions of the national domain. It is safe to say that, if, when the Constitution was under consideration, it had been thought that any such danger lurked behind its plain words, it would never have been ratified.  
[*Carter v. Carter Coal Co.*, 298 U.S. 238 (1936) ]

Foreign States: "Nations outside of the United States...Term may also refer to another state; i.e. a sister state. The term 'foreign nations', ...should be construed to mean all nations and states other than that in which the action is brought; and hence, one state of the Union is foreign to another, in that sense."  
[*Black's Law Dictionary*, Sixth Edition, p. 648]

Foreign Laws: "The laws of a foreign country or sister state. In conflicts of law, the legal principles of jurisprudence which are part of the law of a sister state or nation. Foreign laws are additions to our own laws, and in that respect are called 'jus receptum'."  
[*Black's Law Dictionary*, Sixth Edition, p. 647]

The revenue system documented by Subtitle A of the Internal Revenue Code is intended for the "national government" and not the "federal government", and applies primarily to the following three groups:

1. Public officers/employees domiciled in the federal zone and residing there: The tax imposed in 26 U.S.C. §1 against those domiciled in the federal zone engaged in a "trade or business", which is defined as "the functions of a public office" in 26 U.S.C. §7701(a)(26). This includes:
  - 1.1. "U.S. citizens" who are described in 8 U.S.C. §1401 as persons born in the federal zone. See: <http://famguardian.org/Subjects/LawAndGovt/Citizenship/WhyANational.pdf>
  - 1.2. "residents" who are all aliens and foreign nationals domiciled in our country.
2. Public officers/employees domiciled in the federal zone and traveling overseas: The tax is imposed under 26 U.S.C. §911 upon those domiciled in the federal zone who are traveling temporarily overseas and fall under a tax treaty. The tax applies only to "trade or business" income which is recorded on an IRS Form 1040 and 2555. See also the Supreme Court case of *Cook v. Tait*, 265 U.S. 47 (1924).
3. Nonresident aliens receiving government payments: The tax imposed under 26 U.S.C. §871 on nonresident aliens with government income that is:
  - 3.1. Not connected with a "trade or business" under 26 U.S.C. §871(a) but originates from the federal zone.
  - 3.2. Connected with a "trade or business" under 26 U.S.C. §871(b).

There is no question that Subtitle A of the Internal Revenue Code is entirely constitutional and lawful when administered consistent with its legislative intent and consistent with the words that are clearly defined in 26 U.S.C. §7701. When Congress passed the first income tax in 1862 as an emergency to fund the Civil War, they imposed it mainly upon elected and appointed officers of the United States government. See:

12 Stat. 432, Sections 86-87.

<https://sedm.org/reference/dvds/law-dvd/>

Look in the folder:

\\Federal\\RevenueActs\\Revenue%20Act%20of%201862.pdf

There were other types of taxes included in the Revenue Act 1862, but these applied only within the territories, possessions and the District of Columbia only and not states of the Union. The tax on "employees" and "public offices" has survived since that time as the Subtitle A income tax upon a "trade or business". Only the "words of art" used to describe it have changed since then. The privileged excise taxable activity called a "trade or business", which is a public office in the U.S. Government, A.K.A. federal "employment", has become the nexus to invade the states and falsely claim jurisdiction to

impose a federal income tax. The U.S. Supreme Court said the following of this stealthful tactic and all other efforts to license and tax within the states:

*“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 [a political office] 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)]

Notice the phrase above: “Congress cannot authorize a trade or business [e.g. a “public office”] within a State in order to tax it.” Since they know they can’t “license” a “public office” in a state, then they worked around this problem by the following devious means:

1. They enacted the Social Security Act as a federal business trust.
2. They made the Social Security Business trust a wholly owned corporate subsidiary of the federal government. 28 U.S.C. §3002(15)(A) says the United States” is a federal corporation, and therefore the trust is simply an extension of a federal corporation.
3. They made all those who participate into “federal personnel” engaged in a “public office”. See 5 U.S.C. §553a(a)(13).
4. They use the Social Security Number as a de facto “business license” for all those participating in federal franchises. They don’t openly call it a business license, because they know they aren’t allowed to license activities within a state of the Union. This presumption is very carefully concealed by the federal courts and when you point it out, they will ignore you rather than argue with you because it would destroy the gravy train of PLUNDER that pays their bloated salaries and retirement.
5. They illegally and unlawfully allowed persons in states of the Union to participate. The Social Security program can only lawfully be offered to persons with a legal domicile on federal territory. This is confirmed by the definition of “State” found in 4 U.S.C. §110(d) and in the original Social Security Act of 1935, Section 1101(a)(2). It is unlawful to offer it to anyone domiciled in a state of the Union and doing so creates the equivalent of a false claim under the False Claims Act, 31 U.S.C. §3729. See the following:
  - 5.1. 20 C.F.R. §422.104, which says that the program can only be offered to statutory “U.S. citizens” pursuant to 8 U.S.C. §1401 and statutory “residents” or “permanent residents” as defined in 26 U.S.C. §7701(b)(1)(A). A person born within and domiciled within the exclusive jurisdiction of a state of the Union is neither a statutory “U.S. citizen” or “resident”.
  - 5.2. Why You are Not Eligible for Social Security, Form #06.001  
<http://sedm.org/Forms/FormIndex.htm>

If you want to see how the above scam works, see:

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

However, what was originally intended mainly as a municipal income tax for employees and “public offices” of the District of Columbia and “national government” has been misrepresented and misapplied towards people in states of the Union in violation of the Separation of Powers Doctrine that is the heart and soul of the United States Constitution. See:

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

The American people, the federal courts, and the legal profession have not lived up to their duty to prevent such stealthful encroachments upon their liberty, which has led to the growth of a massive tumor on the body politic that is leading to an erosion of our liberties and freedoms, morality, and standard of living.

The main thing that has changed since the original income tax was passed in 1862 to fund the Civil War is the morality and integrity of those who administer our tax system, and that morality and integrity has seriously eroded to the point where the tax system we have now completely violates the foundational principles of our government documented in the Declaration of Independence: consent of the governed. The requirement for consent is being completely disregarded, and our government has become a terrorist government that operates either by disguising the requirement for consent or ignoring it entirely in the administration of our tax system.

There have been many dastardly attempts over the years since the passage of the Sixteenth Amendment by covetous federal politicians, IRS employees, and federal judges to break down this separation of powers and convince Americans domiciled in states of the Union that they are subject to a municipal “national” income tax that has never applied outside of the federal zone. These efforts by covetous political leaders at breaking down the separation of powers are accomplished mainly through the following means: (Additional means are documented in Chapters 5 and 6 of the free Great IRS Hoax book)

1. Political propaganda. See:
  - 1.1. Rebutted Version of the IRS Pamphlet: “The Truth About Frivolous Tax Arguments”, Form #08.005. See: <http://sedm.org/Forms/FormIndex.htm>
  - 1.2. Rebutted Version of Congressional Research Service Report 97-59A: Frequently Asked Questions Concerning the Federal Income Tax, Form #08.006. See: <http://sedm.org/Forms/FormIndex.htm>
2. Deception using words of art found in the tax code, including “United States”, “State”, “trade or business”, “personal services”, “employee”, etc. See:

Legal Deception, Propaganda, and Fraud, Form #05.014  
<http://sedm.org/Forms/FormIndex.htm>
3. Dumbing down Americans about law and legal subjects in high school. Our public schools have become prisons, not places of learning, because teachers Unions and government have conspired to lower standards, and yet force parents to keep their kids there by interfering with efforts to introduce school vouchers.
4. Dumbing down of the legal profession. Certain key words have been removed from all legal dictionaries in print, or obfuscated, including definitions of key words like “United States”, “State”, “income tax”, “excise tax”, “domicile”.
5. Attorney licensing has created a conflict of interest and censorship with attorneys in objectively defending their clients between their fiduciary duty to the client and the fear of losing their license for aggressively challenging illegal enforcement of income tax codes. See:  
<http://famguardian.org/Subjects/LawAndGovt/LegalEthics/Corruption/WhyYouDontWantAnAtty/WhyYouDon'tWantAnAttorney.htm>
6. Licensing of tax professionals, CPAs, and tax preparers through the Treasury Circular 230 has created a conflict of interest and censorship.
7. Harassing and terrorizing those who try to inform the public about this corruption. See:  
<http://famguardian.org/PublishedAuthors/Govt/TaxHonestyPersecution/TaxHonPersec.htm>
8. Corruption of the court system using the income tax. This corruption is described throughout chapter 6 and sections 2.8.13 through 2.8.13.8.11 of the free Great IRS Hoax book. For the first approx. 170 years of this country, federal judges were not subject to income taxes, but starting in 1932, the first income tax against them was used to destroy their neutrality and enlist them to war against the rights of Americans. It was done in violation of the Constitutional prohibition against reducing judges salaries but the U.S. Supreme Court in 1938 made this tax permanent by not declaring it unconstitutional in the case of O'Malley v. Woodrough. Everything has been downhill since then because, as Alexander Hamilton put it in the Federalist Papers:

*“In the general course of human nature, A POWER OVER A MAN’S SUBSISTENCE AMOUNTS TO A POWER OVER HIS WILL.”*  
*[Alexander Hamilton, The Federalist, No. 79]*

This corruption of the federal judiciary was simply an emulation of the SAME corruption within the British System that we fought a revolution to free ourselves from:

*“He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.”*  
*[Declaration of Independence]*

Below is what the U.S. Supreme Court said about its role at preventing such a breakdown, which it has not lived up to:

*"It may be that it...is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the courts to be watchful for the constitutional rights of the citizens, and against any stealthy encroachments thereon. Their motto should be obsta principalis." [Mr. Justice Brewer, dissenting, quoting Mr. Justice Bradley in *Boyd v. United States*, 116 U.S. 616, 29 L.Ed. 746, 6 Sup.Ct.Rep. 524] [Hale v. Henkel, 201 U.S. 43 (1906)]*

Family Guardian has also assembled a brief, historical, and pictorial presentation that shows exactly how our liberties have been destroyed and undermined over the years by scoundrel lawyers and politicians in the presentation below, if you would like further information:

*How Scoundrels Corrupted Our Republican Form of Government, Family Guardian Fellowship*  
<http://famguardian.org/Subjects/Taxes/Evidence/HowScCorruptOurRepubGovt.htm>

Only We the People can correct this corruption of our American legal and political systems which has been carefully engineered to destroy the separation of powers doctrine and consolidate all political power in Washington D.C. We must do it as voters, as jurists, and eventually with a revolution if need be:

*"In America, freedom and justice have always come from the ballot box, the jury box, and when that fails, the cartridge box."*  
*[Steve Symms, U.S. Senator, Idaho]*

Thomas Jefferson, one of our most beloved founding fathers and the author of our Declaration of Independence, warned us about the dangers of this consolidation of power into the hands of the federal government and predicted everything that has happened to date in destroying the separation of powers when he said the following:

*"When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated."*  
*[Thomas Jefferson to Charles Hammond, 1821. ME 15:332 ]*

*"Our government is now taking so steady a course as to show by what road it will pass to destruction; to wit: by consolidation first and then corruption, its necessary consequence. The engine of consolidation will be the Federal judiciary; the two other branches the corrupting and corrupted instruments."*  
*[Thomas Jefferson to Nathaniel Macon, 1821. ME 15:341 ]*

*"The [federal] judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass."*  
*[Thomas Jefferson to Archibald Thweat, 1821. ME 15:307 ]*

*"There is no danger I apprehend so much as the consolidation of our government by the noiseless and therefore unalarming instrumentality of the Supreme Court."*  
*[Thomas Jefferson to William Johnson, 1823. ME 15:421 ]*

*"I wish... to see maintained that wholesome distribution of powers established by the Constitution for the limitation of both [the State and General governments], and never to see all offices transferred to Washington where, further withdrawn from the eyes of the people, they may more secretly be bought and sold as at market."*  
*[Thomas Jefferson to William Johnson, 1823. ME 15:450 ]*

*"What an augmentation of the field for jobbing, speculating, plundering, office-building and office-hunting would be produced by an assumption of all the State powers into the hands of the General Government!"*  
*[Thomas Jefferson to Gideon Granger, 1800. ME 10:168 ]*

*"I see,... and with the deepest affliction, the rapid strides with which the federal branch of our government is advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all powers, foreign and domestic; and that, too, by constructions which, if legitimate, leave no limits to their power... It is but too evident that the three ruling branches of [the Federal government] are in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves all functions foreign and domestic."*



1 [Thomas Jefferson to William Branch Giles, 1825. ME 16:146 ]

2 "We already see the [judiciary] power, installed for life, responsible to no authority (for impeachment is not  
3 even a scare-crow), advancing with a noiseless and steady pace to the great object of consolidation. The  
4 foundations are already deeply laid by their decisions for the annihilation of constitutional State rights and the  
5 removal of every check, every counterpoise to the engulfing power of which themselves are to make a sovereign  
6 part."

7 [Thomas Jefferson to William T. Barry, 1822. ME 15:388 ]

8 For further quotes supporting the above, see:

9 Thomas Jefferson on Politics and Government

<http://famguardian.org/Subjects/Politics/ThomasJefferson/jeff1060.htm>

## 14 Resources for Further Study and Rebuttal

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

1. *Proof That There Is a "Straw Man"*, Form #05.042-proves that the "public office" is the straw man who is the subject of most federal legislation. Explains why and how it was created  
<http://sedm.org/Forms/FormIndex.htm>
2. *Why Statutory Civil Law is Law for Government and Not Private Persons*, Form #05.037-expands upon the content of this pamphlet.  
<http://sedm.org/Forms/FormIndex.htm>
3. *SEDM Liberty University*- Free educational materials for regaining your sovereignty as an entrepreneur or private person  
<http://sedm.org/LibertyU/LibertyU.htm>
4. *Family Guardian Website, Taxation page*-lots of useful resources on the tax subject  
<http://famguardian.org/Subjects/Taxes/taxes.htm>
5. *Great IRS Hoax*, Form #11.302 book, and especially sections 5.6.11 and 5.6.13 through 5.6.13.12. Free downloadable electronic book  
<http://sedm.org/Forms/FormIndex.htm>
6. *Sovereignty Forms and Instructions Online*, Form #10.004  
<http://sedm.org/Forms/FormIndex.htm>
7. *Who are "Taxpayers" and Who Needs a "Taxpayer Identification Number"?*, Form #05.013  
<http://sedm.org/LibertyU/LibertyU.htm>
8. *What to Do when the IRS Comes Knocking*, Form #09.002  
<http://sedm.org/Forms/FormIndex.htm>
9. *Rebutted Version of the IRS Pamphlet: "The Truth About Frivolous Tax Arguments"*, Form #08.005  
<http://sedm.org/Forms/FormIndex.htm>
10. *Reasonable Belief About Income Tax Liability*, Form #05.007- documents what you can trust in reaching a conclusion about your tax responsibilities.  
<http://sedm.org/Forms/FormIndex.htm>

## 15 Questions that Readers, Grand Jurors, and Petit Jurors Should be Asking the Government

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

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

Your answers will become evidence in future litigation, should that be necessary in order to protect the rights of the person against whom you are attempting to unlawfully enforce federal law.

### 15.1 Interrogatories

My questions are as follows:

1. Please describe at EXACTLY what point in the taxation process my earnings were LAWFULLY converted from EXCLUSIVELY PRIVATE to PUBLIC and thereby became SUBJECT to civil statutory law and government jurisdiction. Check one or more. If none are checked, it shall CONCLUSIVELY be PRESUMED that no tax is owed:

- 1.1. \_\_\_\_ There is no private property. EVERYTHING belongs to us and we just “RENT” it to you through taxes. Hence, we are NOT a “government” because there is not private property to protect. Everything is PUBLIC property by default.
- 1.2. \_\_\_\_ When I was born?
- 1.3. \_\_\_\_ When I became a CONSTITUTIONAL citizen?
- 1.4. \_\_\_\_ When I changed my domicile to a CONSTITUTIONAL and not STATUTORY “State”.
- 1.5. \_\_\_\_ When I indicated “U.S. citizen” or “U.S. resident” on a government form, and the agent accepting it FALSELY PRESUMED that meant I was a STATUTORY “national and citizen of the United States” per 8 U.S.C. §1401 rather than a CONSTITUTIONAL “citizen of the United States”.
- 1.6. \_\_\_\_ When I disclosed and used a Social Security Number or Taxpayer Identification Number to my otherwise PRIVATE employer?
- 1.7. \_\_\_\_ When I submitted my withholding documents, such as IRS Forms W-4 or W-8?
- 1.8. \_\_\_\_ When the information return was filed against my otherwise PRIVATE earnings that connected my otherwise PRIVATE earnings to a PUBLIC office in the national government?
- 1.9. \_\_\_\_ When I FAILED to rebut the false information return connecting my otherwise PRIVATE earnings to a PUBLIC office in the national government?
- 1.10. \_\_\_\_ When I filed a “taxpayer” form, such as IRS Forms 1040 or 1040NR?
- 1.11. \_\_\_\_ When the IRS or state did an assessment under the authority of 26 U.S.C. §6020(b)
- 1.12. \_\_\_\_ When I failed to rebut a collection notice from the IRS?
- 1.13. \_\_\_\_ When the IRS levied monies from my EXCLUSIVELY private account, which must be held by a PUBLIC OFFICER per 26 U.S.C. §6331(a) before it can lawfully be levied?
- 1.14. \_\_\_\_ When the government decided they wanted to STEAL my money and simply TOOK it, and were protected from the THEFT by a complicit United States Department of Justice, who split the proceeds with them?
- 1.15. \_\_\_\_ When I demonstrated legal ignorance of the law to the government sufficient to overlook or not recognize that it is impossible to convert PRIVATE to PUBLIC without my consent, as the Declaration of Independence requires.

2. How can the conversion from PRIVATE to PUBLIC occur without my consent and without violating the Fifth Amendment Takings Clause?

YOUR ANSWER: \_\_\_\_\_

3. If you won’t answer the previous two questions, how the HELL am I supposed to receive constitutionally mandated “reasonable notice” of the following:

- 3.1. EXACTLY what property I exclusively own and therefore what property is NOT subject to government taxation or regulation?
- 3.2. EXACTLY what conduct is expected of me by the law?

YOUR ANSWER: \_\_\_\_\_

4. EXACTLY where in government publications is the first question answered?

YOUR ANSWER: \_\_\_\_\_

5. Why should I believe what government publications say on this subject if the IRS refuses to take responsibility for the accuracy of said publications?

*“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)]*

YOUR ANSWER: \_\_\_\_\_

6. EXACTLY where in the statutes and regulations is the first question answered?

YOUR ANSWER: \_\_\_\_\_

1 7. How does one, a PRIVATE human, "OBEY" a law without "ADMINISTERING OR EXECUTING" it? We'll give  
2 you a hint: It CAN'T BE DONE!

3 "A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he  
4 administer or execute them."  
5 [United States v. Harris, 106 U.S. 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883)]

6 YOUR ANSWER:\_\_\_\_\_

7 8. Isn't a judge compelling you to violate your religious beliefs by compelling you to serve in a public office or accept the  
8 DUTES of the office? Isn't this a violation of the First Commandment NOT to serve "other gods", which can and does  
9 mean civil rulers or governments?

10 But the thing displeased Samuel when they said, "Give us a king to judge us." So Samuel prayed to the Lord.  
11 And the Lord said to Samuel, "Heed the voice of the people in all that they say to you; for they have rejected  
12 Me [God], that I should not reign over them. According to all the works which they have done since the day  
13 that I brought them up out of Egypt, even to this day—with which they have forsaken Me and served other  
14 gods [Kings, in this case]—so they are doing to you also [government becoming idolatry]. Now therefore,  
15 heed their voice. However, you shall solemnly forewarn them, and show them the behavior of the king who  
16 will reign over them."  
17 [1 Sam. 8:6-9, Bible, NKJV]

18 YOUR ANSWER:\_\_\_\_\_

19 9. How can one UNILATERALLY ELECT themselves into public office by filling out a government form? The form  
20 isn't even signed by anyone in the government, such as a tax form or social security application, and therefore couldn't  
21 POSSIBLY be a valid contract anyway? Isn't this a FRAUD upon the United States and criminal bribery, using illegal  
22 "withholdings" to bribe someone to TREAT you as a public officer? See 18 U.S.C. §211.

23 YOUR ANSWER:\_\_\_\_\_

24 10. How can a judge enforce civil statutory law that only applies to public officers without requiring proof on the record  
25 that you are CONSENSUALLY and LAWFULLY engaged in a public office? In other words, that you waived  
26 sovereign immunity by entering into a contract with the government.

27 "It is true, that the person who accepts an office may be supposed to enter into a compact to be answerable to  
28 the government, which he serves, for any violation of his duty; and, having taken the oath of office, he would  
29 unquestionably be liable, in such case, to a prosecution for perjury in the Federal Courts. But because one  
30 man, by his own act [CONSENT], renders himself amenable to a particular jurisdiction, shall another man,  
31 who has not incurred a similar obligation, be implicated? If, in other words, it is sufficient to vest a  
32 jurisdiction in this court, that a Federal Officer is concerned; if it is a sufficient proof of a case arising under a  
33 law of the United States to affect other persons, that such officer is bound, by law, to discharge his duty with  
34 fidelity; a source of jurisdiction is opened, which must inevitably overflow and destroy all the barriers between  
35 the judicial authorities of the State and the general government. Anything which can prevent a Federal Officer  
36 from the punctual, as well as from an impartial, performance of his duty; an assault and battery; or the  
37 recovery of a debt, as well as the offer of a bribe, may be made a foundation of the jurisdiction of this court;  
38 and, considering the constant disposition of power to extend the sphere of its influence, fictions will be  
39 resorted to, when real cases cease to occur. A mere fiction, that the defendant is in the custody of the  
40 marshall, has rendered the jurisdiction of the King's Bench universal in all personal actions."  
41 [United States v. Worrall, 2 U.S. 384 (1798)]  
42 SOURCE: [http://scholar.google.com/scholar\\_case?case=3339893669697439168/](http://scholar.google.com/scholar_case?case=3339893669697439168/)

43 YOUR ANSWER:\_\_\_\_\_

44 11. Isn't this involuntary servitude in violation of the Thirteenth Amendment to serve in a public office if you DON'T  
45 consent and they won't let you TALK about the ABSENCE of your consent?

46 YOUR ANSWER:\_\_\_\_\_

47 12. Isn't it a violation of due process of law to PRESUME that you are a public officer WITHOUT EVIDENCE on the  
48 record from an unbiased witness who has no financial interest in the outcome?

1 "A presumption is an assumption of fact that the law requires to be made from another fact or group of facts  
2 found or otherwise established in the action. A presumption is not evidence."  
3 [Black's Law Dictionary, Sixth Edition, p. 1185]

4  
5 "If any question of fact or liability be conclusively be presumed [rather than proven] against him, this is not  
6 due process of law. [...] the presumption of innocence under which **guilt must be proven by legally obtained**  
7 evidence and the verdict must be supported by the evidence presented; rights at the earliest stage of the  
8 criminal process; and the guarantee that an individual will not be tried more than once for the same offence  
9 (double jeopardy).  
10 [Black's Law Dictionary, Sixth Edition, p. 500]  
11

12 "A presumption is neither evidence nor a substitute for evidence."<sup>45</sup>  
13 [American Jurisprudence 2d, Evidence, §181 (1999)]

14 YOUR ANSWER: \_\_\_\_\_

- 15 13. If the judge won't enforce the requirement that the government as moving party has the burden of proving WITH  
16 EVIDENCE that you were LAWFULLY "appointed or elected" to a public office, aren't you therefore PRESUMED to  
17 be EXCLUSIVELY PRIVATE and therefore beyond the reach of the civil statutory law?

18 YOUR ANSWER: \_\_\_\_\_

- 19 14. Isn't the judge criminally obstructing justice to interfere with requiring evidence on the record that you lawfully  
20 occupy a public office? See 18 U.S.C. §1503, whereby the judge is criminally "influencing" the PUBLIC you.

21 YOUR ANSWER: \_\_\_\_\_

- 22 15. Isn't an unsupported presumption that prejudices a PRIVATE right a violation of the Constitution, and dsn't the rights  
23 that UNCONSTITUTIONAL presumption prejudicially conveys to the government constitute a taking of rights  
24 without just compensation in violation of the Fifth Amendment Takings Clause?

25 YOUR ANSWER: \_\_\_\_\_

- 26 16. How can the judge permit federal civil jurisdiction within a state, a legislatively but not constitutionally foreign  
27 jurisdiction, be absent proof under Federal Rule of Civil Procedure 17(b) that the party was representing a public office  
28 in the government and therefore, that the civil statutory laws of the District of Columbia/federal zone apply rather than  
29 the state in question? See the Rules of Decision Act, 28 U.S.C. §1652.

30 YOUR ANSWER: \_\_\_\_\_

- 31 17. Even if we ARE lawfully serving in a public office, don't we have the right to:  
32 17.1. Be off duty?  
33 17.2. Choose WHEN we want to be off duty?  
34 17.3. Choose WHAT financial transactions we want to connect to the office?  
35 17.4. Be protected in NOT volunteering to connect a specific activity to the public office? Governments LIE by calling  
36 something "voluntary" and yet refusing to protect those who do NOT consent to "volunteer", don't they?  
37 17.5. Not be coerced to sign up for OTHER, unrelated public offices when we sign up for a single office? For instance,  
38 do we have a right to not become a FEDERAL officer when we sign up for a STATE "driver license"? The  
39 requirement of a Social Security Number to get the license compels a federal office at the time we should only be  
40 acquiring a state office.

41 If the answer to all the above is NO, then there ARE no PRIVATE rights or PRIVATE property and there IS no  
42 "government" because governments only protect PRIVATE rights and private property!

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<sup>45</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.



YOUR ANSWER:\_\_\_\_\_

18. Does [4 U.S.C. §72](#) apply to all offices/agencies/bureaus/departments of the federal government or are there some which are exempt from this law? If there are, would they be exempt by law or by some other means?

YOUR ANSWER:\_\_\_\_\_

19. Can a person work for the federal government outside the District of Columbia and serve within an "office" as legally defined under the appointments clause, Article VI of the United States Constitution if he does not serve in a position which is "expressly extended" by Congress to the place where he or she serves?

See: *Officers of the United States Within the Meaning of the Appointments Clause*, U.S. Attorney Memorandum Opinion,  
<http://famguardian.org/TaxFreedom/CitesByTopic/PublicOffice-appointmentsclausev10.pdf>

YOUR ANSWER:\_\_\_\_\_

20. Does the word "shall" in [4 U.S.C. §72](#) show that Congress intended the restriction of this law to be mandatory or did they intend it to be permissive?

YOUR ANSWER:\_\_\_\_\_

21. Does the phrase "in the District of Columbia, and not elsewhere," within [4 U.S.C. §72](#) of itself, place a limitation on the exercise of the authority of all offices of the federal government to only the geographical area of the District of Columbia?

YOUR ANSWER:\_\_\_\_\_

22. Does the phrase "in the District of Columbia, and not elsewhere" within [4 U.S.C. §72](#) refer to WHAT an office of government can do or does it refer to WHERE it can lawfully exercise the grant of authority Congress has given to that office?

YOUR ANSWER:\_\_\_\_\_

23. Does the phrase "except as otherwise expressly provided by law" within [4 U.S.C. §72](#) mean that exceptions to this limitation are permitted and can be expected?

YOUR ANSWER:\_\_\_\_\_

24. Does the phrase "except as otherwise expressly provided by law" within [4 U.S.C. §72](#) mean this law reserves to Congress the exclusive right to make any exceptions to the grant restrictions mandated by this law, or can a Court extend the authority of an office of the government outside the District of Columbia apart from an Act of Congress?

YOUR ANSWER:\_\_\_\_\_

25. Does the word "expressly" within [4 U.S.C. §72](#) mean that, when Congress extends the authority of an office of the government to a geographical area outside the District of Columbia, it will do so in unmistakable, explicit, definite and direct terms leaving no room for doubt?

YOUR ANSWER:\_\_\_\_\_

26. Can you tell me if there is such a law, which meets all the criteria of [4 U.S.C. §72](#), which applies to any state of the Union or any portion thereof, and which equally resembles the express extension of the Secretary's authority to Guam, the Virgin Islands and the Northern Marianas as found in [48 U.S.C. §1397](#), 48 U.S.C. §1421i and [48 U.S.C. §1801](#) (and the Covenant to which 1801 refers), respectively?

YOUR ANSWER:\_\_\_\_\_

27. If I am connected to a government franchise within a state of the Union that relates to federal “public officers”, do I have a duty to the United States in connection with the provisions of said franchise if there is no law which “expressly” extends the authority of the Secretary (or any particular law) to the several states pursuant to [4 U.S.C. §72](#)?

*“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 [e.g. a “public office” pursuant to 26 U.S.C. §7701(a)(26)] 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)]*

YOUR ANSWER:\_\_\_\_\_

28. Do I have a right, as an American Citizen who is the target of a federal government enforcement action, to demand that the person instituting said enforcement action against me demonstrates the statutes which impose upon me a particular duty with respect to the United States and does the person whom I demand the law from have an obligation to produce it or cease their enforcement action?

*“Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority.”  
[Federal Crop Insurance vs. Merrill, 33 U.S. 380 at 384 (1947)]*

YOUR ANSWER:\_\_\_\_\_

29. [26 U.S.C. §7601](#) authorizes the IRS to enforce within “internal revenue districts”. [Treasury Order 150-02](#) identifies the only remaining internal revenue district as being within the District of Columbia. Please identify the authority which authorizes the creation of internal revenue districts within any state of the Union and the authority for including portions of said state of the Union which are not part of any federal area.

*“It is no longer open to question that **the general government, unlike the states**, Hammer v. Dagenhart, [247 U.S. 251, 275](#), 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, **possesses no inherent power in respect of the internal affairs of the states; and emphatically not with regard to legislation.**”  
[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]*

YOUR ANSWER:\_\_\_\_\_

30. The purpose of law is to give “fair notice” to everyone of the conduct that is expected, and everything within the conduct that is “included”. The U.S. Supreme Court has also said that statutory “presumptions” are not permissible, Heiner v. Donnan, 285 U.S. 312 (1932). They also said that everything which is “included” must expressly appear somewhere within the statutes. Stenberg v. Carhart, 530 U.S. 914 (2000). Please identify what statute within Internal Revenue Code, Subtitle A gives me “fair notice” that any part of a state of the Union that is not part of a federal area has been “expressly included” within the definition of “United States”:

[TITLE 26 > Subtitle F > CHAPTER 79 > Sec. 7701.](#)  
[Sec. 7701. - Definitions](#)

[\(a\)\(9\) United States](#)

*The term “United States” when used in a geographical sense includes only the [States](#) and the District of Columbia.*

(a)(10) State

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

*"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)]

See and rebut also:

1. Requirement for Reasonable Notice, Form #05.022;  
<http://sedm.org/Forms/FormIndex.htm>
2. Legal Deception, Propaganda, and Fraud, Form #05.014  
<http://sedm.org/Forms/FormIndex.htm>
3. Presumption: Chief Weapon for Unlawfully Enlarging Federal Jurisdiction, Form #05.017;  
<http://sedm.org/Forms/FormIndex.htm>

YOUR ANSWER: \_\_\_\_\_

31. [26 U.S.C. §7701\(a\)\(26\)](#) defines a "trade or business" as "the functions of a public office". Please identify any statutory authority for including anything OTHER than "the functions of a public office" within the meaning of a "trade or business".

[26 U.S.C. Sec. 7701\(a\)\(26\)](#)

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

YOUR ANSWER: \_\_\_\_\_

32. Is the "public office" mentioned in [26 U.S.C. §7701\(a\)\(26\)](#) the SAME "public office" that appears in [4 U.S.C. §72](#) and if not, why not?

YOUR ANSWER: \_\_\_\_\_

33. If your answer to the previous question included anything OTHER than "the functions of a public office" and did not cite the authority of a specific statute, please explain how you can engage in conclusive presumptions unsubstantiated by the authority of law without violating my Constitutional rights and thereby violating your oath to support and defend the Constitution of the United States of America.

(1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [Vlandis v. Kline (1973) [412 U.S. 441](#), 449, 93 S.Ct. 2230, 2235; Cleveland Bd. of Ed. v. LaFleur (1974) [414](#)

1 [U.S. 632](#), 639-640, 94 S.Ct. 1208, 1215-presumption under Illinois law that unmarried fathers are unfit violates  
2 process]  
3 [[Federal Civil Trials and Evidence](#), Rutter Group, 2006, paragraph 8:4993, p. 8K-34]  
4

5 **“Statutes creating permanent irrebuttable presumptions have long been disfavored under the Due Process**  
6 **Clauses of the Fifth and Fourteenth Amendments. In [Heiner v. Donnan](#), 285 U.S. 312, 52 S.Ct. 358, 76 L.Ed.**  
7 **772 (1932)”**  
8 [United States Supreme Court, [Vlandis v. Kline](#), 412 U.S. 441 (1973)]  
9

10 **“If any question of fact or liability be conclusively presumed [rather than proven] against him, this is not due**  
11 **process of law.”**  
12 [Black’s Law Dictionary, Sixth Edition, p. 500]  
13

14 ‘It is apparent,’ this court said in the Bailey Case ( [219 U.S. 239](#) , 31 S. Ct. 145, 151) ‘that a constitutional  
15 prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be  
16 violated by direct enactment. **The power to create presumptions is not a means of escape from constitutional**  
17 **restrictions.**’  
18 [Manley v. Georgia, [279 U.S. 1](#) , 5-6, 49 S. Ct. 215]

19 YOUR ANSWER: \_\_\_\_\_

- 20 34. How can you refuse to answer the above questions if your own mission statement says you are required to help people  
21 obey the law and comply with the law?

22 YOUR ANSWER: \_\_\_\_\_

## 23 15.2 Admissions

- 24 1. Admit that the term “employee” is defined in [26 U.S.C. §3401\(c\)](#) ) as follows:

25 [26 U.S.C. Sec. 3401\(c\) Employee](#)

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

30  
31 YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

32  
33 CLARIFICATION: \_\_\_\_\_

- 34 2. Admit that the term “employee” is defined in [26 C.F.R. §31.3401\(c\)-1](#) as follows:

35 [26 C.F.R. §31.3401\(c\)-1 Employee:](#)

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

40  
41 YOUR ANSWER: \_\_\_\_ Admit \_\_\_\_ Deny

42  
43 CLARIFICATION: \_\_\_\_\_

- 44 3. Admit that any payment made to an individual by the federal government using money collected through its lawful  
45 taxing powers must be made for a “public purpose”, or it amounts to what the Supreme Court calls “robbery in the  
46 name of taxation”.

47 **To lay, with one hand, the power of the government on the property of the citizen, and with the other to**  
48 **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.

Coulter, J., in *Northern Liberties v. St. John's Church*, 13 Pa.St. 104 says, very forcibly, 'I think the common mind has everywhere taken in the understanding that taxes are a public imposition, levied by authority of the government for the purposes of carrying on the government in all its machinery and operations—that they are imposed for a public purpose.' See, also *Pray v. Northern Liberties*, 31 Pa.St. 69; *Matter of Mayor of N.Y.*, 11 Johns., 77; *Camden v. Allen*, 2 Dutch., 398; *Sharpless v. Mayor*, supra; *Hanson v. Vernon*, 27 Ia., 47; *Whiting v. Fond du Lac*, supra." [Loan Association v. Topeka, 20 Wall. 655 (1874)]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

4. Admit that unless the recipient of a federal payment is either a federal "employee", a contractor, or agent receiving compensation for work related only to his official duties as such agent or contractor, then the funds are being used for a "private purpose" rather than "public purpose".

"Public purpose. In the law of taxation, eminent domain, etc., this is a term of classification to distinguish the objects for which, according to settled usage, the government is to provide, from those which, by the like usage, are left to private interest, inclination, or liberality. The constitutional requirement that the purpose of any tax, police regulation, or particular exertion of the power of eminent domain shall be the convenience, safety, or welfare of the entire community and not the welfare of a specific individual or class of persons [such as, for instance, federal benefit recipients as individuals]. "Public purpose" that will justify expenditure of public money generally means such an activity as will serve as benefit to community as a body and which at same time is directly related function of government. *Pack v. Southwestern Bell Tel. & Tel. Co.*, 215 Tenn. 503, 387 S.W.2d. 789, 794.

The term is synonymous with governmental purpose. As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; the essential requisite being that a public service or use shall affect the inhabitants as a community, and not merely as individuals. A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within a given political division, as, for example, a state, the sovereign powers of which are exercised to promote such public purpose or public business."

[Black's Law Dictionary, Sixth Edition, p. 1231, Emphasis added]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

5. Admit that Social Security, Medicare, FICA, and all other such federal benefit programs constitute federal payments to individuals.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

6. Admit that participation in Social Security, Medicare, FICA, or any other federal benefit program makes the recipient into a federal instrumentality either through an employment or contract relationship.

[TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II](#) > § 552a  
[§ 552a. Records maintained on individuals](#)

(a) Definitions.— For purposes of this section—

(13) the term "Federal personnel" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to



receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

7. Admit that the authority for state income taxes derives from [4 U.S.C. §106](#):

[TITLE 4 > CHAPTER 4 > § 106](#)  
[§ 106. Same; income tax](#)

(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

8. Admit that the authority for state income taxes upon federal “employees” derives from [5 U.S.C. §5517](#):

[TITLE 5 > PART III > Subpart D > CHAPTER 55 > SUBCHAPTER II > § 5517](#)  
[§ 5517. Withholding State income taxes](#)

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on [government] employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made”.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, “State” means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections [5516](#) and [5520](#), the terms “serve as a member of the armed forces” and “service as a member of the Armed Forces” include—

(1) participation in exercises or the performance of duty under section [502](#) of title [32](#), United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 10147 of title 10, United States Code, by a member of the Ready Reserve

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

9. Admit that the “employment” they are referring to is only federal government employment.

[§ 31.3121\(b\)-3 Employment; services performed after 1954.](#)

(a) In general. Whether services performed after 1954 constitute employment is determined in accordance with the provisions of section 3121(b).

(b) Services performed within the United States [federal zone].

Services performed after 1954 within the United States (see §31.3121(e)-1) by an employee for his employer, unless specifically excepted by section 3121(b), constitute employment. With respect to services performed within the United States, the place where the contract of service is entered into is immaterial. The citizenship or residence of the employee or of the employer also is immaterial except to the extent provided in any specific exception from employment. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract of service may be entered into in a foreign country, and yet, if the employee under such contract performs services within the United States, there may be to that extent employment.

"(c) Services performed outside the United States—(1) In general. Except as provided in paragraphs (c)(2) and (3) of this section, services performed outside the United States (see §31.3121(e)-1) do not constitute employment."

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

10. Admit that tax imposed by [5 U.S.C. §5517](#) is a tax on federal “employees”:

[TITLE 5 > PART III > Subpart D > CHAPTER 55 > SUBCHAPTER II > § 5517](#)  
[§ 5517. Withholding State income taxes](#)

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting “who are residents of the State with which the agreement is made” for “whose regular place of Federal employment is within the State with which the agreement is made”.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, “State” means a State, territory, possession, or commonwealth of the United States.

(d) For the purpose of this section and sections [5516](#) and [5520](#), the terms “serve as a member of the armed forces” and “service as a member of the Armed Forces” include—

(1) participation in exercises or the performance of duty under section [502](#) of title [32](#), United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section [10147](#) of title [10](#), United States Code, by a member of the Ready Reserve

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

11. Admit that the term “trade or business” is defined in [26 U.S.C. §7701](#)(a)(26).

[26 U.S.C. Sec. 7701](#)(a)(26)

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

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

12. Admit that there are no other definitions or references in Internal Revenue Code, Subtitle A relating to a “trade or business” which would change or expand the definition of “trade or business” above to include things other than a “public office”.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

13. Admit that a “trade or business” is an “activity”.

*“Trade or Business in the United States*

*Generally, you must be engaged in a trade or business during the tax year to be able to treat income received in that year as effectively connected with that trade or business. **Whether you are engaged in a trade or business in the United States depends on the nature of your activities.** The discussions that follow will help you determine whether you are engaged in a trade or business in the United States.”*  
*[IRS Publication 519, p. 15, Year 2000, emphasis added]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

14. Admit that all excise taxes are taxes on privileged and/or licensed “activities”.

*“Excise tax. A tax imposed on the performance of an act, the engaging in an occupation, or the enjoyment of a privilege. *Rapa v. Haines*, Ohio Comm.Pl., 101 N.E.2d. 733, 735. A tax on the manufacture, sale, or use of goods or on the carrying on of an occupation or activity or tax on the transfer of property.”*  
*[Black’s Law Dictionary, Sixth Edition, p. 563]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

15. Admit that holding “public office” in the United States government is an “activity”.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

16. Admit that those holding “public office” are described as “employees” within [26 C.F.R. §31.3401\(c\)-1](#).

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

*“...the term [employee] includes officers and employees, whether elected or appointed, of the United States, a [federal] State, Territory, Puerto Rico or any political subdivision, thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term ‘employee’ also includes an officer of a corporation.”*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

17. Admit that one cannot be engaged in a “trade or business” WITHOUT ALSO being a federal “employee” as defined above.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

18. Admit that all revenues collected under the authority of Internal Revenue Code, Subtitle A in connection with a “trade or business” are upon the entity engaged in the “activity”, who are identified in [26 U.S.C. §7701\(a\)\(26\)](#) as those holding “public office”.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

19. Admit that the decision to hold public office is a voluntary personal employment decision that cannot be coerced.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

20. Admit that because holding public office is “voluntary”, then all taxes based upon this activity must also be voluntary and therefore avoidable for those who do not engage in the taxable activity.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

21. Admit that the way to lawfully avoid taxes based on the activity of holding of a public office is to choose not to involve oneself in the activity.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

22. Admit that there are no taxable “activities” mentioned anywhere within Subtitle A of the Internal Revenue Code except that of a “trade or business” as defined within [26 U.S.C. §7701\(a\)\(26\)](#).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

23. Admit that all taxes falling upon “public officers” are upon the “office” or position of “agency”, and not upon the private person during his off-duty, non-employment time.

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

24. Admit that a tax upon a “public office” rather than directly upon a natural person is an “indirect” rather than a “direct” tax within the meaning of the Constitution Of the United States.

*“Direct taxes bear immediately upon persons, upon the possession and enjoyment of rights; indirect taxes are levied upon the happening of an event as an exchange.”  
[Knowlton v. Moore, 178 U.S. 41 (1900)]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

25. Admit that all earnings originating within the “United States” defined in [26 U.S.C. §7701](#)(a)(9) and (a)(10) fall within the classification of a “trade or business” under 26 U.S.C. §864(c)(3).

[TITLE 26](#) > [Subtitle A](#) > [CHAPTER 1](#) > [Subchapter N](#) > [PART I](#) > § 864  
[§864. Definitions and special rules](#)

(c) *Effectively connected income, etc.*

(3) *Other income from sources within United States*

*All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.*

*Income Subject to Tax*

*Income from sources outside the United States that is not effectively connected with a trade or business in the United States is not taxable if you receive it while you are a nonresident alien. The income is not taxable even if you earned it while you were a resident alien or if you became a resident alien or a U.S. citizen after receiving it and before the end of the year.  
[IRS Publication 519 (2000), p. 26]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

26. Admit that the amount of “taxable income” defined in [26 U.S.C. §863](#) that a person must include in “gross income” within the meaning of [26 U.S.C. §61](#) is determined by their earnings from a “trade or business” plus any earnings of “nonresident aliens” coming under [26 U.S.C. §871](#)(a).

[TITLE 26](#) > [Subtitle A](#) > [CHAPTER 1](#) > [Subchapter N](#) > [PART I](#) > Sec. 863.  
[Sec. 863.](#) - *Special rules for determining source*

(a) *Allocation under regulations*

*Items of gross income, expenses, losses, and deductions, other than those specified in sections 861(a) and 862(a), shall be allocated or apportioned to sources within or without the United States, under regulations prescribed by the Secretary. Where items of gross income are separately allocated to sources within the United States, there shall be deducted (for the purpose of computing the taxable income therefrom) the expenses, losses, and other deductions properly apportioned or allocated thereto and a ratable part of other expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income. The remainder, if any, shall be included in full as taxable income from sources within the United States.*



YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

27. Admit that the IRS Form 1040 is filed by those domiciled in the “United States”:

1040A 11327A Each  
U.S. Individual Income Tax Return

Annual income tax return **filed by citizens and residents of the United States**. There are separate instructions available for this item. The catalog number for the instructions is 12088U.

W:CAR:MP:FP:F:I Tax Form or Instructions  
[IRS Published Products Catalog (2003), Document 7130, p. F-15]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

28. Admit that “[citizens](#)” and “[residents](#)” of the United States have in common a “[domicile](#)” within the “United States”.

[26 C.F.R. §1.1-1\(c\): Income Tax on individuals](#)

(c) Who is a citizen.

Every person born or naturalized in the [federal] [United States](#) and subject to its [exclusive federal jurisdiction under [Article I, Section 8](#), Clause 17 of the [Constitution](#)] jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the [Immigration and Nationality Act \(8 U.S.C. 1401-1459\)](#). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act ([8 U.S.C. 1481-1489](#)), *Schneider v. Rusk*, (1964) [377 U.S. 163](#), and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are [nationals but not citizens at birth](#), e.g., a person born in American Samoa, see section 308 of such Act ([8 U.S.C. 1408](#)). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see [section 877](#). A [foreigner](#) who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.  
[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7332, 39 FR 44216, Dec. 23, 1974]

[26 U.S.C. §7701\(b\)\(1\)\(A\) Resident alien](#)

(b) Definition of **resident alien** and nonresident alien  
(1) In general  
For purposes of this title (other than subtitle B) -

(A) **Resident alien**

**An alien individual shall be treated as a resident of the [United States](#) with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):**  
(i) Lawfully admitted for permanent residence  
Such individual is a lawful permanent resident of the United States at any time during such calendar year.  
(ii) Substantial presence test  
Such individual meets the substantial presence test of paragraph (3).  
(iii) First year election  
Such individual makes the election provided in paragraph (4).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION: \_\_\_\_\_

29. Admit that a person without a “domicile” in the “United States” and with no income from sources within the “United States” is a “nontaxpayer” not subject to the Internal Revenue Code:

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

(31) Foreign estate or trust

(A) Foreign estate

The term "foreign estate" means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust

The term "foreign trust" means any trust other than a trust described in subparagraph (E) of paragraph (30).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

30. Admit that a person may not be "subject to the jurisdiction" of the United States without either a domicile in the "United States" or some kind of employment, agency, or contract with the federal government.

[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:\_\_\_\_\_

31. Admit that the term "United States" is defined in [26 U.S.C. §7701](#)(a)(9) and (a)(10) and 4 U.S.C. §110(d) as being limited to federal territory and possessions and no place else:

[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.

Uniform Commercial Code (U.C.C.)

§ 9-307. LOCATION OF DEBTOR.

(h) [Location of United States.]

The United States is located in the District of Columbia.

[SOURCE:

<http://www.law.cornell.edu/ucc/search/display.html?terms=district%20of%20columbia&url=/ucc/9/article9.htm#s9-307>]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

32. Admit that there are not additions to the above definition of “United States” that apply to Subtitle A of the I.R.C., and therefore under the rules of statutory Construction, what is not explicitly included may safely be presumed to be excluded by implication:

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

See also:

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

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

33. Admit that the only kind of income that goes on an IRS Form 1040 is income “effectively connected with a trade or business”

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter N > PART I > § 864  
§864. Definitions and special rules

(c) *Effectively connected income, etc.*

(3) *Other income from sources within United States*

*All income, gain, or loss from sources within the United States (other than income, gain, or loss to which paragraph (2) applies) shall be treated as effectively connected with the conduct of a trade or business within the United States.*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

34. Admit that a “trade or business” is an excise taxable activity connected with federal “employment” and/or agency:

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

*“The term ‘trade or business’ includes the performance of the functions of a public office.”*

Public Office:

*“Essential characteristics of a ‘public office’ are:*

*(1) Authority conferred by law,*

*(2) Fixed tenure of office, and*

- (3) Power to exercise some of the sovereign functions **of government**.  
(4) Key element of such test is that “officer is carrying out a sovereign function”.  
(5) Essential elements to establish public position as ‘public office’ are:  
Position must be created by Constitution, legislature, or through authority conferred by legislature.  
Portion of sovereign power of government must be delegated to position,  
Duties and powers must be defined, directly or implied, by legislature or through legislative authority.  
Duties must be performed independently without control of superior power other than law, and  
Position must have some permanency.”  
[Black’s Law Dictionary, Sixth Edition, p. 1230]

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

35. Admit that 4 U.S.C. §72 mandates that all public offices shall be exercised ONLY in the District of Columbia and not elsewhere except as expressly provided by an act of Congress:

[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.*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

36. Admit that Congress has never legislatively created any “public offices” in states of the Union which could lawfully become the subject of an excise tax on a “public office” or a “trade or business” as defined in [26 U.S.C. §7701\(a\)\(26\)](#).

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

37. Admit that following the enactment of the first American personal income tax in 1862, the U.S. Supreme Court was called on to analyze whether it was Constitutional, and that the court admitted that Congress has no lawful authority to establish any kind of privileged or licensed activity within a state of the Union in order to tax it.

*“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)]*

YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

CLARIFICATION:\_\_\_\_\_

1 38. Admit that the License Tax Cases above have never been overruled and their findings are STILL binding upon the  
2 I.R.S. and every other instrumentality of the federal government.

3 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

4  
5 CLARIFICATION:\_\_\_\_\_

6 39. Admit that [26 U.S.C. §7601](#) is the authority for the IRS to enforce the I.R.C. within “internal revenue districts”.

7 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

8  
9 CLARIFICATION:\_\_\_\_\_

10 40. Admit that the only remaining internal revenue district is the District of Columbia and that no part of any state of the  
11 Union is within the exterior boundaries of any internal revenue district.

12 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

13  
14 CLARIFICATION:\_\_\_\_\_

15 41. Admit that there is NO PROVISION OF LAW or Act of Congress which creates or authorizes internal revenue  
16 districts within any state of the Union, including 26 U.S.C. §7621.

17 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

18  
19 CLARIFICATION:\_\_\_\_\_

20 42. Admit that Congress cannot lawfully create an internal revenue district in a place where it has no legislative  
21 jurisdiction, and that the I.R.C. is “legislation”.

22 *“It is no longer open to question that the general government, unlike the states, Hammer v. Dagenhart, [247](#)*  
23 *[U.S. 251, 275](#), 38 S.Ct. 529, 3 A.L.R. 649, Ann.Cas.1918E 724, possesses no inherent power in respect of the*  
24 *internal affairs of the states; and emphatically not with regard to legislation.*  
25 *[Carter v. Carter Coal Co., [298 U.S. 238](#), 56 S.Ct. 855 (1936)]*  
26 \_\_\_\_\_

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

33 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

34  
35 CLARIFICATION:\_\_\_\_\_

36 43. Admit that based on the foregoing, the INTERNAL Revenue Service may enforce only INTERNAL to the federal  
37 government in the District of Columbia and internal to the federal zone, and has no lawful authority to operate within  
38 the states of the Union.

39 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

40  
41 CLARIFICATION:\_\_\_\_\_

42 44. Admit that Constitutional “due process” requires that all parties against whom a law may be enforced whose rights are  
43 adversely affected must be afforded “prior notice” of all such laws and an opportunity to provide their objections  
44 BEFORE the new or altered law may be enforced against them:



1                   *"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality*  
2 *is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the*  
3 *action and afford them an opportunity to present their objections."* *Mullane v. Central Hanover Bank & Trust*  
4 *Co., 339 U.S. 306, 314 (1950). Without proper prior notice to those who may be affected by a government*  
5 *decision, all other procedural rights may be nullified.*  
6 *[Administrative Law and Process in a Nutshell, Ernest Gelhorn and Ronald M. Levin, West Publishing, ISBN 0-*  
7 *314-06683-7, 1997, p. 214]*

8           YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

9  
10          CLARIFICATION:\_\_\_\_\_

- 11   45. Admit that the Federal Register is the method by which the federal government satisfies the due process requirement of  
12   the Constitution to provide "due notice" to persons domiciled in states of the Union of all laws which could be  
13   enforced against them.

14                   [TITLE 44 > CHAPTER 15 > § 1508](#)  
15                   [§ 1508. Publication in Federal Register as notice of hearing](#)

16                   *A notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress, or*  
17 *which may otherwise properly be given, **shall be deemed to have been given to all persons residing within the***  
18 ***States of the Union** and the District of Columbia, except in cases where notice by publication is insufficient in*  
19 *law, **when the notice is published in the Federal Register** at such a time that the period between the*  
20 *publication and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard*  
21 *is*

22           YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

23  
24          CLARIFICATION:\_\_\_\_\_

- 25   46. Admit that no statute or regulation which prescribes any kind of penalty can be enforced in a state of the Union without  
26   FIRST publishing it in the Federal Register:

27                   [TITLE 5 > PART I > CHAPTER 5 > SUBCHAPTER II > § 552](#)  
28                   [§ 552. Public information; agency rules, opinions, orders, records, and proceedings](#)

29                   *(a) Each agency shall make available to the public information as follows:*

30                   *(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the*  
31 *public—*

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

38                   [26 C.F.R. §601.702](#) *Publication and public inspection*

39                   *(a)(2)(ii) Effect of failure to publish.*

40                   *Except to the extent that a person has actual and timely notice of the terms of any matter referred to in*  
41 *subparagraph (1) of this paragraph which is required to be published in the Federal Register, **such person is***  
42 ***not required in any manner to resort to, or be adversely affected by, such matter if it is not so published or is***  
43 ***not incorporated by reference therein pursuant to subdivision (i) of this subparagraph. Thus, for example,***  
44 ***any such matter which imposes an obligation and which is not so published or incorporated by reference will***  
45 ***not adversely change or affect a person's rights.***

46           YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

47  
48          CLARIFICATION:\_\_\_\_\_

1 47. Admit that none of the criminal provisions of the Internal Revenue Code, [26 U.S.C. §7201](#) through [§7217](#), have any  
2 implementing regulations published in the Federal Register.

3 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

4  
5 CLARIFICATION:\_\_\_\_\_

6 48. Admit that the only parties against whom any enactment of Congress may be directly enforced against without  
7 publication in the Federal Register of agency regulations are those parties who are part of the following groups  
8 specifically exempted from the requirement for publication in the Federal Register, which include  
9 48.1. "A military and foreign affairs function of the United States". [5 U.S.C. §553](#)(a)(1).  
10 48.2. "A matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts."  
11 [5 U.S.C. §553](#)(a)(2).  
12 48.3. "Federal agencies or persons in their capacity as officers, agents, or employees thereof". [44 U.S.C. §1505](#)(a)(1).

13 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

14  
15 CLARIFICATION:\_\_\_\_\_

16 49. Admit that before an Agency of the federal government may lawfully enforce any provision of law against a party  
17 domiciled in a state of the Union, they *must* have a reasonable belief based on legally admissible evidence that one of  
18 the following two requirements of law has been satisfied.  
19 49.1. That the person against whom enforcement is being attempted is a member of one of the groups specifically  
20 exempted from the requirement for publication in the Federal Register of statutes and/or implementing  
21 regulations.  
22 49.2. That the statute or implementing regulation they seek to enforce has been published in the Federal Register.

23 YOUR ANSWER: \_\_\_\_Admit \_\_\_\_Deny

24  
25 CLARIFICATION:\_\_\_\_\_

26  
27 **Acknowledgment:**

28 I declare under penalty of perjury as required under [26 U.S.C. §6065](#) that the answers provided by me to the foregoing  
29 questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these  
30 answers are completely consistent with each other and with my understanding of the Constitution of the United States,  
31 Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual (I.R.M.), and the rulings of the Supreme Court  
32 but not necessarily lower federal courts.

33 Name (print):\_\_\_\_\_

34 Signature:\_\_\_\_\_

35 Date:\_\_\_\_\_

36 Witness name (print):\_\_\_\_\_

37 Witness Signature:\_\_\_\_\_

38 Witness Date:\_\_\_\_\_